
STATUTORY INSTRUMENTS

2011 No. 3066

TRANSPORT

RAILWAYS

The Railways (Interoperability) Regulations 2011

<i>Made</i>	- - - -	<i>22nd December 2011</i>
<i>Laid before Parliament</i>		<i>23rd December 2011</i>
<i>Coming into force</i>	- -	<i>16th January 2012</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of, read with paragraph 1A of Schedule 2 to, the European Communities Act 1972 ^{F1} and section 247 of the Transport Act 2000 ^{F2}.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments ^{F3} to be construed as a reference to those provisions as amended from time to time.

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to railways and railway transport ^{F4}.

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|-----------|--|
| F1 | 1972 c.68; section 2(2) is amended, and paragraph 1A of Schedule 2 is inserted, by the Legislative and Regulatory Reform Act 2006 (c.51, sections 27(1)(a) and 28) and both are amended by the European Union (Amendment) Act 2008 (c.7, Part 1 of the Schedule) . |
| F2 | 2000 c.38. |
| F3 | See definition of trans-European rail system in regulation 2(1) and regulations 6(11), 8(6), 35(3)(b) and 36(7). |
| F4 | S.I. 1996/266 , to which there are amendments not relevant to these Regulations. |

PART 1

Interpretation and Application

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Railways (Interoperability) Regulations 2011.

(2) These Regulations come into force on 16th January 2012.

Interpretation

2.—(1) In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974 ^{F5};

[^{F6}“the 2016 Directive” means Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union;

“approved body” has the meaning set out in regulation 30;

“authorised representative” means—

(a) a person who—

(i) immediately before IP completion day was established in an EEA state and appointed to act by a manufacturer or contracting entity to perform specified tasks for that manufacturer or contracting entity in relation to the Directive, and

(ii) on or after IP completion day continues to be so established and appointed by the manufacturer or contracting entity to perform those tasks; or

(b) a person who on or after IP completion day is appointed in accordance with regulation 3A;]

[^{F7}“certificate of verification” means an EC certificate of verification or a UK certificate of verification;]

“the Channel Tunnel system” has the meaning given by section 1(7) of the Channel Tunnel Act 1987 ^{F8} to the words “the tunnel system”;

^{F9} ...

“Competent Authority” means—

(a) in Great Britain, the Secretary of State; and

(b) in Northern Ireland, the [^{F10}DFI];

“contracting entity” means the person who contracts or intends to contract with another person for that other person to design, construct, renew or upgrade a subsystem;

“Conventional Directive” means Directive 2001/16/EC of the European Parliament and the Council of 19th March 2001 on the interoperability of the trans-European conventional rail system ^{F11};

[^{F12}“the Directive” means Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (Recast), as amended by—

(a) Commission Directive 2009/131/EC of 16 October 2009 amending Annex VII to Directive 2008/57/EC of the European Parliament and of the Council on the interoperability of the rail system within the Community,

(b) Commission Directive 2011/18/EU of 1 March 2011 amending Annexes II, V and VI to Directive 2008/57/EC of the European Parliament and of the Council on the interoperability of the rail system within the Community, ^{F13} ...

(c) Commission Directive 2013/9/EU of 11 March 2013 amending Annex III to Directive 2008/57/EC of the European Parliament and of the Council on the interoperability of the rail system within the Community;]^{F14}[^{F15} ...

(d) Commission Directive 2014/38/EU of 10th March 2014 amending Annex III to [Directive 2008/57/EC](#) of the European Parliament and of the Council as far as noise pollution is concerned.]]^{F16}and

(e) Commission Directive 2014/106/EU of 5 December 2014 amending Annexes V and VI to [Directive 2008/57/EC](#) of the European Parliament and of the Council on the interoperability of the rail system within the Community;]

“designated body” means a person appointed under regulation 31 as a designated body;

“determination of type” means a determination made by the Safety Authority pursuant to regulation 8;

[^{F17}“DFI” means the Department for Infrastructure as established by section 1(6) of the Departments Act (Northern Ireland) 2016;]

[^{F18}“EC certificate of verification” means a certificate drawn up by an EU notified body as part of the EC verification assessment procedure for a structural subsystem;]

“EC declaration of conformity or suitability for use” is a declaration drawn up in accordance with [^{F19}Article 13 and Annex IV of the Directive or in accordance with Articles 9 and 10 of the 2016 Directive];

[^{F20}“EC declaration of verification” means a declaration drawn up by a project entity in relation to a structural subsystem in accordance with Article 18 of and Annex V to the Directive;

“EC verification assessment procedure” means the procedure set out in Annex VI to the Directive or Annex IV to the 2016 Directive;]

“essential requirements” means all the conditions set out in [^{F21}Schedule 2] that must be met by the rail system, subsystems and interoperability constituents, including interfaces;

[^{F22}“European Commission” means the Commission of the European Union;]

^{F23}
...

^{F24}
...

[^{F25}“European Union Agency for Railways” means the Agency established by Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004;]

“European vehicle number” has the meaning given in regulation 36;

[^{F26}“EU notified body” means a body which either—

(a) has been appointed by an EU Member State and notified by the EU Member State concerned to the European Commission and the other EU Member States pursuant to Article 20(1) of the Conventional Directive, Article 20(1) of the High-Speed Directive or Article 28(1) of the Directive; or

(b) has been notified to the European Commission in accordance with Chapter VI of the 2016 Directive;

unless its appointment has been terminated or its notification has been withdrawn;]

“functional subsystem” means a functional subsystem as specified in section 1(b) of [^{F27}Schedule 3];

^{F28}
...

“High-Speed Directive” means Council Directive [96/48/EC](#) of 23rd July 1996 on the interoperability of the trans-European high-speed rail system^{F29};

“infrastructure register” means a register kept in accordance with regulation 35;

“Intergovernmental Commission” has the same meaning as in the Channel Tunnel Act 1987;

[^{F30}“interoperability” means the ability of the rail system to allow the safe and uninterrupted movement of trains which accomplish the required levels of performance for those lines;]

“interoperability constituent” means any elementary component, group of components, sub-assembly or complete assembly of equipment that is incorporated or intended to be incorporated into a subsystem upon which the interoperability of the rail system depends directly or indirectly; and the concept of a “constituent” covers both tangible objects and intangible objects such as software;

[^{F31}“ISV” means an intermediate statement of verification issued by any one of the following—

- (a) an approved body in relation to the design stage or the production stage of a subsystem in accordance with section 2 of Schedule 4;
- (b) an EU notified body in relation to the design stage or the production stage of a subsystem in accordance with section 2 of Annex VI to the Directive or in accordance with section 2 of Annex IV to the 2016 Directive;
- (c) a designated body at an intermediate stage of the UK verification assessment procedure referred to in section 3 of Schedule 4;
- (d) a designated body at an intermediate stage of the EC verification assessment procedure referred to in section 3 of Annex VI to the Directive;

“NTRs” means National Technical Rules setting out standards, technical specifications and technical rules in relation to the rail system, as amended or varied from time to time, a list of which is published by the Secretary of State in accordance with regulation 3C;

“NTSN” means a National Technical Specification Notice published by the Secretary of State pursuant to regulation 3B setting out the standards, technical specifications and technical rules in use in the United Kingdom as amended or varied from time to time;]

“National Vehicle Register” has the meaning given in regulation 36;

“network” means the lines, stations, terminals, and all kinds of fixed equipment needed to ensure safe and continuous operation of the rail system;

^{F32}
...

“notified national technical rules” means the standards, technical specifications and technical rules in use in the United Kingdom which [^{F33}were notified by the Secretary of State to the European Commission before IP completion day] pursuant to article 17(3) of the Directive or Article 16(3) of the High-Speed Directive or Article 16(3) of the Conventional Directive, including any variations from time to time notified;

^{F34}
...

“operator”, in relation to the use of an interoperability constituent or a project subsystem, means the infrastructure manager or railway undertaking having the management of that interoperability constituent or project subsystem for the time being;

“owner”, in relation to a structural subsystem, means any person who has an estate or interest in, or right over that subsystem, and whose agreement is needed before another may use it;

“placing in service” means all the operations by which a subsystem is put into its design operating state; and cognate expressions shall be construed accordingly;

“place on the market” means making an interoperability constituent available for purchase with a view to its use on the rail system; and cognate expressions shall be construed accordingly;

“project” means a scheme for the construction or upgrading or renewal of the whole or part of any subsystem of the rail system, and where it is intended to carry out that construction,

upgrading or renewal in parts, each of which are to be placed in service on a permanent basis independently of the other parts, it means any such part;

“project entity” means, in relation to a project, a contracting entity or manufacturer or the authorised representative ^{F35} ... of a contracting entity or manufacturer;

“project subsystem” means—

- (a) the whole of a structural subsystem which is subject to the requirement for authorisation under these Regulations, other than when the structural subsystem is subject to the requirement because part of it is being upgraded or renewed,
- (b) in the case of a structural subsystem which is subject to the requirement for authorisation under these Regulations because part of it is being upgraded or renewed, that part of the subsystem, or
- (c) a structural subsystem in respect of which a person has voluntarily made an application for authorisation under these Regulations;

“put into use” has the meaning given in regulation 4(2);

“rail system” has the same meaning as in the Directive ^{F36};

[^{F37}“rail system” means the structure composed of lines and fixed installations of the existing rail system in the United Kingdom plus the vehicles of all categories and origin travelling on that infrastructure;]

“registration entity” means the person designated under regulation 36(11);

“renewal” means any major substitution work on a subsystem or part subsystem which does not change the overall performance of the subsystem; and cognate words shall be construed accordingly;

[^{F38}“safety assessment report” means a report provided in accordance with Article 15 of Commission Implementing Regulation (EU) 402/2013 of 30 April 2013 on the common safety method for risk evaluation and assessment;]

“Safety Authority” means the [^{F39}Office of Rail and Road]^{F40} except—

- (a) in relation to Northern Ireland, where it means the [^{F41}DFI], and
- (b) in relation to the Channel Tunnel system, where it means the Intergovernmental Commission;

“structural subsystem” means a structural subsystem as specified in section 1(a) of [^{F42}Schedule 3];

“subsystem” means the whole, or, as the context requires, part of a subdivision of the rail system as specified in sections 1(a) and 1(b) of [^{F43}Schedule 3], namely structural subsystems and functional subsystems and includes a structural or functional subsystem that is intended to become the whole or part of a subdivision of the rail system;

“trans-European rail system” means the trans-European conventional and high-speed rail systems as set out in sections 1 and 2 of Annex I to the Directive, ^{F44} ...;

[^{F45}“TSI” means technical specifications for interoperability adopted from time to time by the European Commission pursuant to the Directive, or the Conventional Directive, or the High Speed Directive or the 2016 Directive, as those TSIs have effect in EU law, and as they are amended from time to time;]

“TSI conform authorisation” means an authorisation given for a vehicle which was in conformity with all applicable TSIs when it was placed in service [^{F46}or placed on the market] and where those TSIs covered a significant part of the essential requirements and included a TSI on rolling stock;

“upgrading” means any major modification work on a subsystem or part of a subsystem which improves the overall performance of the subsystem; and cognate words shall be construed accordingly;

[^{F47}“UK certificate of verification” means a certificate drawn up by an approved body or designated body as part of the UK verification assessment procedure for a structural subsystem;

“UK declaration of conformity or suitability for use” means a declaration drawn up in accordance with regulation 25 and Schedule 7;

“UK declaration of verification” means a declaration of verification drawn up by a project entity in relation to a structural subsystem pursuant to regulation 16(3) and Schedule 5;

“UK specific case” means a special provision in relation to the technical specifications for a subsystem or an interoperability constituent to allow for its compatibility with the rail system, which is set out in an NTSN or an NTR and described in that NTSN or that NTR as a “UK specific case”;

“UK specific rules” means all UK specific cases and NTRs, including any dispensation granted against NTRs under regulation 46(1);

“UK verification assessment procedure” means the procedure referred to in regulation 17 and Schedule 4]

“vehicle” means a railway vehicle that runs on its own wheels on railway lines with or without traction and is composed of one or more structural and functional subsystems or parts of such subsystems;

F48 ...

F49 ...

“writing” includes any text transmitted using electronic communications that is received, or accessible by the person to whom it is sent, in legible form.

^{F50}(2)

(3) ^{F51}... A reference to the EU includes a reference to the European Economic Area, and a reference to a Member State includes a reference to an EEA state.

F5 1974 c.37.

F6 Words in reg. 2 inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(2)(a)**; 2020 c. 1, **Sch. 5 para. 1(1)** (as amended by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/318\)](#), regs. 1(2)(b), **5(2)(a)**, and [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **4(2)(a)**)

F7 Words in reg. 2 substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(2)(b)**; 2020 c. 1, **Sch. 5 para. 1(1)**

F8 1987 c.53.

F9 Words in reg. 2 omitted (31.12.2020) by virtue of [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(2)(c)**; 2020 c. 1, **Sch. 5 para. 1(1)**

F10 Word in reg. 2 substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(2)(d)**; 2020 c. 1, **Sch. 5 para. 1(1)**

F11 O.J. No. L 110, 20.4.2001, p1. This Directive was repealed with effect from 19th July 2010 by the Directive.

F12 Words in reg. 2(1) substituted (1.1.2014) by [The Railways \(Interoperability\) \(Amendment\) Regulations 2013 \(S.I. 2013/3023\)](#), regs. 1, **2(2)**

F13 Word in reg. 2(1) omitted (1.1.2015) by virtue of [The Railways \(Interoperability\) \(Amendment\) Regulations 2014 \(S.I. 2014/3217\)](#), regs. 1, **2(2)(a)**

- F14** Word in reg. 2(1) omitted (8.1.2016) by virtue of The Railways (Interoperability) (Amendment) Regulations 2015 (S.I. 2015/2022), regs. 1, **2(2)(a)(i)**
- F15** Words in reg. 2(1) inserted (1.1.2015) by The Railways (Interoperability) (Amendment) Regulations 2014 (S.I. 2014/3217), regs. 1, **2(2)(b)**
- F16** Words in reg. 2(1) inserted (8.1.2016) by The Railways (Interoperability) (Amendment) Regulations 2015 (S.I. 2015/2022), regs. 1, **2(2)(a)(ii)**
- F17** Words in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in reg. 2 inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(f)**; 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(g)**; 2020 c. 1, Sch. 5 para. 1(1) (as amended by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(2)(b)**)
- F20** Words in reg. 2 inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(h)**; 2020 c. 1, Sch. 5 para. 1(1) (as amended by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(2)(c)**)
- F21** Words in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F22** Words in reg. 2 inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(j)**; 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in reg. 2 omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(k)**; 2020 c. 1, Sch. 5 para. 1(1)
- F24** Words in reg. 2 omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(l)**; 2020 c. 1, Sch. 5 para. 1(1)
- F25** Words in reg. 2 inserted (31.12.2020) by S.I. 2019/345, reg. 2(2)(ka) (as inserted by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(2)(d)**)
- F26** Words in reg. 2 inserted (31.12.2020) by S.I. 2019/345, reg. 2(2)(m) (as substituted by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(2)(e)**)
- F27** Words in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(n)**; 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in reg. 2 omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(o)**; 2020 c. 1, Sch. 5 para. 1(1)
- F29** O.J. No. L 235 17.9.1996, p6. This Directive was repealed with effect from 19th July 2010 by the Directive.
- F30** Words in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(p)**; 2020 c. 1, Sch. 5 para. 1(1)
- F31** Words in reg. 2 inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(q)**; 2020 c. 1, Sch. 5 para. 1(1) (as amended by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(2)(f)(i)**, **5(2)(f)(ii)**)
- F32** Words in reg. 2 omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(r)**; 2020 c. 1, Sch. 5 para. 1(1)
- F33** Words in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(s)** (as amended by The Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020 (S.I. 2020/786), regs. 1(2)(b)(i), **4(2)(b)**); 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in reg. 2 omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(t)**; 2020 c. 1, Sch. 5 para. 1(1)

- F35** Words in reg. 2 omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(u)**; 2020 c. 1, Sch. 5 para. 1(1)
- F36** The term includes the trans-European rail system.
- F37** Words in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(v)**; 2020 c. 1, Sch. 5 para. 1(1)
- F38** Words in reg. 2(1) substituted (8.1.2016) by The Railways (Interoperability) (Amendment) Regulations 2015 (S.I. 2015/2022), regs. 1, **2(2)(b)**
- F39** Words in reg. 2(1) substituted (E.W.S.) (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 9(a)**
- F40** Established under section 15 of the Railways and Transport Safety Act 2003 (c.20).
- F41** Word in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(w)**; 2020 c. 1, Sch. 5 para. 1(1)
- F42** Words in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(x)**; 2020 c. 1, Sch. 5 para. 1(1)
- F43** Words in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(y)**; 2020 c. 1, Sch. 5 para. 1(1)
- F44** Words in reg. 2 omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(z)**; 2020 c. 1, Sch. 5 para. 1(1)
- F45** Words in reg. 2 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(aa)**; 2020 c. 1, Sch. 5 para. 1(1) (as amended by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(2)(g)**)
- F46** Words in reg. 2 inserted (31.12.2020) by S.I. 2019/345, reg. 2(2)(ab) (as inserted by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(2)(h)**)
- F47** Words in reg. 2 inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F48** Words in reg. 2 omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(cc)**; 2020 c. 1, Sch. 5 para. 1(1)
- F49** Words in reg. 2 omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(dd)**; 2020 c. 1, Sch. 5 para. 1(1)
- F50** Reg. 2(2) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(ee)**; 2020 c. 1, Sch. 5 para. 1(1)
- F51** Words in reg. 2(3) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(2)(ff)**; 2020 c. 1, Sch. 5 para. 1(1)

Application

3.—(1) Subject to paragraphs (2) and (5), these Regulations apply to—

^{F52}(a) the rail system;

(b) subsystems located, operated or intended to be operated in the United Kingdom; and

(c) interoperability constituents.

(2) These Regulations do not apply to any part of the rail system that the Secretary of State determines falls within one or more of these categories—

(a) metros, trams and other light rail systems;

(b) networks that are functionally separate from the rest of the rail system and intended only for the operation of local, urban or suburban passenger services, as well as railway undertakings operating solely on these networks;

(c) infrastructure and vehicles reserved for a strictly local, historical or touristic use.

(3) A person may make an application to the Secretary of State for a determination under paragraph (2) and the Secretary of State must consider any such application.

(4) The Secretary of State must publish and keep up to date a list of the parts of the rail system that are excluded from the scope of these Regulations by virtue of determinations made under paragraph (2).

(5) These Regulations do not apply to—

- (a) privately owned railway infrastructure and vehicles exclusively used on such infrastructure that exist solely for use by the owner for its freight operations; or
- (b) railways the lines of which have a gauge of less than 350 millimetres and vehicles running on such lines.

(6) Paragraphs (2) and (5)(a) are subject to the voluntary arrangements provided for in regulation 5(1)(b) and (c).

(7) References in this regulation to the Secretary of State shall in their application to Northern Ireland have effect as references to [F53DFI].

F52 Reg. 3(1)(a) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F53 Word in reg. 3(7) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

[F54] **Appointment and obligations of an authorised representative**

3A.—(1) A manufacturer or contracting entity may, in writing, appoint a person established in the United Kingdom as its authorised representative to perform certain tasks pursuant to these Regulations.

(2) A manufacturer or contracting entity who has appointed an authorised representative to perform, on behalf of that manufacturer or contracting entity, a task under these Regulations remains responsible for the proper performance of that task.

(3) An authorised representative must comply with all the duties imposed on the manufacturer or contracting entity in relation to each obligation under these Regulations that the representative is appointed to perform, and will be subject to the same penalties as a manufacturer or contracting entity for failure to comply with those duties.]

F54 Reg. 3A inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(5)**; 2020 c. 1, Sch. 5 para. 1(1)

[F55] **PART 1A**

National Technical Specification Notices and National Technical Rules

F55 Pt. 1A inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(6)**; 2020 c. 1, Sch. 5 para. 1(1) as amended by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **4(3)(a)**, **4(3)(b)**

Publication of National Technical Specification Notices

3B.—(1) The Secretary of State may set standards to be complied with in relation to the design, construction, placing in service, upgrading, renewal, operation and maintenance of the parts of the rail system, as well as the professional qualifications and health and safety conditions of the staff who contribute to its operation and maintenance.

(2) Those standards may be set out in National Technical Specification Notices (NTSNs), which must be published by the Secretary of State.

(3) NTSNs may be varied from time to time by the Secretary of State.

(4) Any variation must be published by the Secretary of State.

(5) Regulations 39 and 40 apply to the enforcement of the standards set out in NTSNs as they apply to the enforcement of these Regulations.

(6) When the Secretary of State publishes an NTSN for the first time, and the NTSN is intended to take the place of a particular TSI as it had effect immediately before IP completion day, the NTSN must specify the TSI it replaces.

(7) When the Secretary of State publishes an NTSN or a variation of an NTSN and that NTSN substantially reproduces the provisions of a TSI, the NTSN must specify the title of the TSI it substantially reproduces at the time of publication.

Publication of a list of National Technical Rules

3C.—(1) The Secretary of State may set supplementary standards to be complied with in relation to the design, construction, placing in service, upgrading, renewal, operation and maintenance of the parts of the rail system, as well as the professional qualifications and health and safety conditions of the staff who contribute to its operation and maintenance.

(2) Those standards may be set out in NTRs which supplement NTSNs.

(3) On IP completion day, the Secretary of State must publish a list of all NTRs applying in the United Kingdom.

(4) Where appropriate, the list must specify the notified national technical rule that an NTR replaces.

(5) The list of NTRs may be varied from time to time by the Secretary of State.

(6) Any variation to the list must be published by the Secretary of State.

(7) Regulations 39 and 40 apply to the enforcement of the standards set out in NTRs as they apply to the enforcement of these Regulations.]

PART 2

Subsystems

Requirement for authorisation

4.—(1) No person is to put into use any structural subsystem unless—

(a) the Safety Authority has given an authorisation under these Regulations for the placing in service of that subsystem; [^{F56}or]

(b) the Competent Authority has decided under regulation 13 that for the upgrading or renewal of the subsystem, an authorisation is not required for the subsystem to be put into use;^{F57}...

^{F57}(c)

(2) A structural subsystem is put into use when, having been constructed, upgraded or renewed, it is first used on or as part of the rail system^{F58}... for the transportation of passengers or freight or for the purpose for which it was designed.

(3) For the purposes of paragraph (2) use of a structural subsystem does not include any testing or trials conducted in the [F59relevant EC or UK] verification assessment procedure or for additional checks required by the Safety Authority.

[F60(4) The requirements set out in paragraph (1) apply to a vehicle even if there is an extant authorisation granted in an EU Member State or by the European Union Agency for Railways. A person wishing to put a vehicle into use in the UK beyond the Channel Tunnel system which has such an authorisation must apply for an authorisation under regulation 6.]

- F56** Word in reg. 4(1)(a) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(7)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F57** Reg. 4(1)(c) and word omitted (31.12.2020) by virtue of [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(7)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F58** Words in reg. 4(2) omitted (31.12.2020) by virtue of [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(7)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F59** Words in reg. 4(3) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(7)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F60** Reg. 4(4) inserted by S.I. 2019/345, reg. 2(7)(d) (as substituted) by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/318\)](#), regs. 1(2) (b), **5(3)**)

Application for authorisation

5.—(1) A person may apply for an authorisation in respect of any structural subsystem to be placed in service if—

- (a) the authorisation is required under regulation 4(1); [F61or]
- (b) an authorisation is not required under regulation 4(1) because regulation 3(2) or (5)(a) applies, but the person nevertheless wants an authorisation; F62...
- F62(c)

(2) In order for an application to be valid it must be made in writing to the Safety Authority and be accompanied by—

- (a) the technical file compiled in accordance with regulation 17; and
- [F63(b) the UK declaration of verification;]

(3) Subject to paragraph (4), in considering an application the Safety Authority must not require checks already carried out under the [F64UK] verification assessment procedure to be carried out again.

(4) The Safety Authority may require such additional checks which the Safety Authority considers necessary in relation to the project subsystem if that subsystem appears to the Safety Authority not to meet the essential requirements.

(5) Where additional checks are required under paragraph (4) the Safety Authority must—

- (a) inform the applicant that the application cannot be determined before the additional checks are carried out; and
- (b) notify the Secretary of State in writing forthwith of the additional checks it requires and the reasons for requiring those checks.

(6) Paragraphs (2) and (4) are subject to regulations 6, 9 and 10.

(7) Paragraph (5)(b) does not apply to [F65DFI].

F66(8)

- F61** Word in reg. 5(1)(a) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(8)(a)(i); 2020 c. 1, Sch. 5 para. 1(1)
- F62** Reg. 5(1)(c) and word omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(8)(a)(ii); 2020 c. 1, Sch. 5 para. 1(1)
- F63** Reg. 5(2)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(8)(b); 2020 c. 1, Sch. 5 para. 1(1)
- F64** Word in reg. 5(3) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(8)(c); 2020 c. 1, Sch. 5 para. 1(1)
- F65** Word in reg. 5(7) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(8)(d); 2020 c. 1, Sch. 5 para. 1(1)
- F66** Reg. 5(8) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(8)(e); 2020 c. 1, Sch. 5 para. 1(1)

Authorisation for a vehicle already authorised for [F67an EU] Member State

6.—[F68(1) This regulation applies where an authorisation is required under regulation 4(4).]

(2) When this regulation applies paragraph (3) applies instead of regulation 5(2) and paragraph (4) applies instead of regulation 5(4).

(3) In order for the application to be valid the application must be made in writing to the Safety Authority and accompanied by—

- (a) a copy of the authorisation referred to in regulation [F694(4)] (“the first authorisation”);
- (b) if the first authorisation is a TSI conform authorisation, a technical file containing—
 - (i) a copy of the technical file from the first authorisation;
 - (ii) for a vehicle equipped with a data recorder not required by an applicable TSI [F70in force at the time when the vehicle was first authorised], information on the procedures for collecting and evaluating the data;
 - (iii) the documentation relating to the maintenance history and any technical modifications undertaken after the first authorisation;
 - (iv) evidence on technical and operational characteristics that shows that the vehicle is compatible with the infrastructures and fixed installations, including climate conditions, energy supply system, control-command and signalling system, track gauge and infrastructure gauges, maximum permitted axle load and other constraints of the network; F71 ...
 - [F72(v) any UK certificate of verification in relation to UK specific rules; and]
 - [F73(vi) sufficient documentary evidence to satisfy the Safety Authority that the first authorisation has not been revoked;]
- (c) if the first authorisation is not a TSI conform authorisation, a technical file containing—
 - (i) information on the procedure followed in relation to the first authorisation in order to show that vehicle complied with the safety requirements in force and information on any derogation that applies;

- (ii) the technical data and information on the maintenance programme and operational characteristics, including, for a vehicle equipped with a data recorder, information on the procedures for collecting and evaluating the data;
 - (iii) the documentation relating to the maintenance and operational history and any technical modifications undertaken after the first authorisation;
 - (iv) evidence on technical and operational characteristics that shows that the vehicle is compatible with the infrastructures and fixed installations, including climate conditions, energy supply system, control-command and signalling system, track gauge and infrastructure gauges, maximum permitted axle load and other constraints of the network; ^{F74}...
 - [^{F75}(v) any UK certificate of verification in relation to UK specific rules; and]
 - [^{F76}(vi) sufficient documentary evidence to satisfy the Safety Authority that the first authorisation has not been revoked;]
 - (d) if the first authorisation was made, in accordance with Article 26 of the Directive [^{F77}or Article 24 of the 2016 Directive], on the basis of a declaration of conformity to type, a copy of the declaration; and
 - (e) any [^{F78}UK declaration of verification] from the project entity made under paragraph (9).
- [^{F79}(4) If the first authorisation is a TSI conform authorisation, the Safety Authority may, after consultation with the applicant, by notice in writing require the applicant to carry out additional tests on the network concerned or risk analysis and to provide any additional information which the Safety Authority considers necessary in order to check compatibility between the vehicle and the network concerned, including compatibility with UK specific rules.]
- (5) If the first authorisation is not a TSI conform authorisation the Safety Authority may, after consultation with an applicant, require the applicant, by notice in writing, to carry out additional tests on the network concerned or risk analysis and to provide any additional information which the Safety Authority considers necessary in order to verify that—
- (a) if there is a substantial safety risk, matters covered by the information referred to in paragraph (3)(c)(i) and (ii); and
 - (b) matters covered by the information referred to in paragraph (3)(c)(iii) and (iv),
- comply with any applicable [^{F80}UK specific rules].
- (6) The infrastructure manager must, if requested by the applicant, make reasonable efforts to enable any tests required under paragraphs (4) and (5) to be completed before the date which is three months after the date on which the infrastructure manager received the request.
- (7) If there are any applicable [^{F81}UK specific rules] that must be assessed against in order to comply with requirements made by the Safety Authority under paragraphs (4) or (5), the project entity must, in order for the application to proceed, engage a designated body, ^{F82}... to assess conformity with those rules.
- ^{F83}(8)
- [^{F84}(9) If a body is engaged in accordance with paragraph (7), in order for the application to proceed, the project entity must draw up a UK declaration of verification in relation to the project subsystem in accordance with Schedule 5, after the body appointed under paragraph (7) has, in accordance with Schedule 4, drawn up a UK certificate of verification and compiled a technical file.]
- ^{F85}(10)
- ^{F86}(11)
- (12) This regulation does not apply in relation to the Channel Tunnel system.

- F67** Words in reg. 6 heading substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F68** Reg. 6(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F69** Word in reg. 6(3)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F70** Words in reg. 6(3)(b)(ii) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F71** Word in reg. 6(3)(b)(iv) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(c)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F72** Reg. 6(3)(b)(v) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(c)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)
- F73** Reg. 6(3)(b)(vi) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(c)(v)**; 2020 c. 1, Sch. 5 para. 1(1)
- F74** Word in reg. 6(3)(c)(iv) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(c)(vi)**; 2020 c. 1, Sch. 5 para. 1(1)
- F75** Reg. 6(3)(c)(v) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(c)(vii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F76** Reg. 6(3)(c)(vi) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(c)(viii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F77** Words in reg. 6(3)(d) inserted (31.12.2020) by S.I. 2019/345, reg. 2(9)(c)(viii) (as inserted by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(4)**)
- F78** Words in reg. 6(3)(e) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(c)(ix)**; 2020 c. 1, Sch. 5 para. 1(1)
- F79** Reg. 6(4) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F80** Words in reg. 6(5) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
- F81** Words in reg. 6(7) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(f)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F82** Words in reg. 6(7) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(f)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F83** Reg. 6(8) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(g)**; 2020 c. 1, Sch. 5 para. 1(1)
- F84** Reg. 6(9) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(h)**; 2020 c. 1, Sch. 5 para. 1(1)
- F85** Reg. 6(10) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F86** Reg. 6(11) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(9)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

Authorisation decision

7.—(1) The Safety Authority must determine an application by—

- (a) authorising the placing in service of the structural subsystem; or
- (b) refusing the application for authorisation.

(2) The Safety Authority must, and may only, issue an authorisation for the placing in service of a structural subsystem, where it is satisfied that—

- (a) the [^{F87}UK declaration of verification], if required, has been drawn up in accordance with [^{F88}Schedule 5];
- (b) the project subsystem is technically compatible with the rail system into which it is being integrated; ^{F89}...
- (c) the project subsystem has been so designed, constructed and installed as to meet the essential requirements relating to that subsystem when placed in service; [^{F90}and,
- (d) the project entity has satisfactorily completed any tests required by regulations 5(4), and 6(4) and 6(5).]
- (3) The Safety Authority may include conditions in an authorisation.
- (4) In this regulation “conditions” means—
 - (a) restrictions or limitations on the use of the structural subsystem; or
 - (b) requirements that must be met by a time specified in the authorisation.
- (5) The Safety Authority must consider an application under regulation [^{F91}6(1)] as soon as possible and make the decision as to whether to issue an authorisation on or before—
 - (a) in the case of a vehicle with a TSI conform authorisation from [^{F92}an EU Member State], the later of—
 - (i) the date falling two months after the Safety Authority receives the technical file; and
 - (ii) if the applicant receives a notice under regulation 6(4) before the date referred to in (i), the date falling one month after the provision of all the information, risk analysis and results of the checks required by the notice; and
 - (b) in the case of a vehicle with an authorisation from [^{F93}an EU Member State] which is not a TSI conform authorisation, the later of—
 - (i) the date falling four months after the Safety Authority receives the technical file; and
 - (ii) if the applicant receives a notice under regulation 6(5) before the date referred to in (i), the date falling two months after the provision of all the information, risk analysis and results of the checks required by the notice.
- (6) Where paragraph (5) applies and the Safety Authority fails to make a decision by the date required, the vehicle is deemed to be authorised with effect from the beginning of the day which is three months after that date.

F87 Words in reg. 7(2)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(11)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F88 Words in reg. 7(2)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(11)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F89 Word in reg. 7(2)(b) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(11)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F90 Reg. 7(2)(d) and word inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(11)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F91 Word in reg. 7(5) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(11)(d)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F92 Words in reg. 7(5)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(11)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F93 Words in reg. 7(5)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(11)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Determination of type

8.—(1) If the Safety Authority issues an authorisation for the placing in service of a vehicle, the Safety Authority must issue a determination of type in relation to the vehicle.

(2) If the Safety Authority issues an authorisation for the placing in service of a structural subsystem that is not a vehicle, the Safety Authority may, with the consent of the person who applied for the authorisation, issue a determination of type in relation to that subsystem.

(3) The person who applied for the authorisation may make an application to the Safety Authority requesting the Safety Authority to make a determination of type under paragraph (2) and the Safety Authority must consider any such application.

(4) A determination of type must describe the basic design characteristics of the structural subsystem.

(5) If the Safety Authority considers it necessary as a result of [^{F94}material changes to the applicable standards] it may modify, suspend or withdraw a determination of type.

[^{F95}(6) The Safety Authority must publish and keep up to date a list of determinations of type for vehicles issued in accordance with this regulation (including those determinations issued by the Safety Authority before IP completion day) and any modification, suspension or withdrawal of such a determination.

(6A) In maintaining that list, the Safety Authority may have regard to the requirements set out in Annex II to Commission Implementing [Decision 2011/665/EU](#) of 4 October 2011 on the European register of authorised types of railway vehicles as that Decision has been amended by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations ([EU](#)) [No 321/2013](#), (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing [Decision 2011/665/EU](#) as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474.]

(7) Following an authorisation under regulation 9 the Safety Authority is not required to make a further determination under this regulation.

(8) The Safety Authority must publish a list of the determination of types for structural subsystems that are not vehicles and keep the list up to date.

[^{F96}(9) In regulations 8, 9 and 10, “applicable standards” means the applicable standards in force at the time when type was determined, which are—

- (a) before IP completion day, standards set out in TSIs and notified national technical rules;
- (b) on or after IP completion day, standards set out in NTSNs and NTRs.

(10) In regulations 8, 9 and 10, any reference to “material” changes to standards does not include the replacement of the standards contained in TSIs or notified national technical rules by the standards published by the Secretary of State in accordance with regulations 3B and 3C on IP completion day and contained in NTSNs or NTRs.]

F94 Words in [reg. 8\(5\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(13\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)

F95 [Reg. 8\(6\)\(6A\)](#) substituted for [reg. 8\(6\)](#) (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(13\)\(b\)](#) (as amended by S.I. 2020/786, regs. 1(2)(b)(i), [4\(4\)\(a\)](#); by S.I. 2019/345, [reg. 2\(13\)\(b\)](#) and S.I. 2020/318, regs. 1(2)(b), [5\(5\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

F96 [Reg. 8\(9\)\(10\)](#) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(13\)\(c\)](#) (as amended: by S.I. 2020/786, regs. 1(2)(b)(i), [4\(4\)\(b\)\(i\)\(ii\)](#) and S.I. 2019/1310, regs. 1(2)(c), [6\(2\)\(a\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Type authorisation

9.—(1) A person who proposes the placing in service of a structural subsystem that conforms to the description in a determination of type, as modified under regulation 8(5) if applicable, may make an application for an authorisation to the Safety Authority.

(2) An application must be in writing and be accompanied by—

- (a) a declaration by the project entity that the structural subsystem conforms to the description set out in the determination of type;
- (b) a statement as to whether there have been any [^{F97}material changes to the applicable standards] since the Safety Authority made or modified the determination of type; and
- (c) if there are any such changes, a description of them.

(3) The Safety Authority must consider any application made under and in accordance with paragraphs (1) and (2) and must, and may only, issue an authorisation where it is satisfied that—

- (a) the project subsystem conforms to the description set out in the determination of type;
- (b) there have been no [^{F98}material changes to the applicable standards] since the Safety Authority made or modified the determination of type which are material to the application; and
- (c) the project subsystem has been so designed, constructed and installed as to meet the essential requirements relating to that subsystem when placed in service.

(4) Subject to regulation 10, regulations 5(2) and (4) and 7(2) do not apply to an application for an authorisation under this regulation.

(5) If the application is for a vehicle the declaration referred to in paragraph (2)(a) must be consistent with [^{F99}Schedule 6].

(6) In this regulation “conforms” means conforms in all the respects which materially affect compliance with the applicable essential requirements.

- F97** Words in [reg. 9\(2\)\(b\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(14\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F98** Words in [reg. 9\(3\)\(b\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(14\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F99** Words in [reg. 9\(5\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(14\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Type authorisation: changes to [^{F100}applicable standards]

10.—(1) If in the Safety Authority's opinion there have been changes to the applicable [^{F101}standards] that are material to an application made under regulation 9 the Safety Authority must give a notice in writing to the applicant specifying the changes that the Safety Authority considers to be material to the application.

(2) If having received a notice issued by the Safety Authority under paragraph (1) the applicant wishes to continue with the application, the applicant must provide to the Safety Authority the documentation referred to in regulation 5(2)(a) and (b).

(3) If the Safety Authority has received the further material referred to in paragraph (2), the Safety Authority may require additional tests in accordance with regulation 5(4) and (5).

(4) If the applicant has provided the documentation in accordance with paragraph (2), the Safety Authority must determine the application in accordance with regulation 7 as read with paragraph (5) of this regulation.

(5) For the purposes of paragraphs (2), (3) and (4) the documentation to be provided, the additional checks to be carried out and the authorisation to be issued must relate only to the changes to the applicable [F102 standards].

F100 Words in [reg. 10](#) heading substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(16)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F101 Word in [reg. 10\(1\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(16)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F102 Word in [reg. 10\(5\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(16)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Revocation of authorisations

11.—(1) The Safety Authority may revoke an authorisation before a structural subsystem is put into use if it is satisfied that the conditions of that authorisation are no longer met and that there is a significant safety risk arising as a result.

(2) Before revoking an authorisation the Safety Authority must give notice in writing to the person to whom the authorisation was issued (“the holder”) that—

- (a) it is considering revoking that authorisation and the reasons why; and
- (b) within a period specified in the notice, which must be not less than 28 days from the date of the notice, the holder may make representations in writing to the Safety Authority or, if the holder so requests, may make oral representations to the Safety Authority.

(3) The Safety Authority must not revoke the authorisation unless the Safety Authority has considered the representations (if any) from the holder made during the period specified in the notice.

(4) Where the Safety Authority revokes an authorisation, it must give notice in writing of the revocation to the holder and include reasons for the revocation in the notice.

List of projects for the renewal or upgrading of subsystems

12.—(1) The Competent Authority may from time to time publish a list under this regulation that names or describes projects or types of project that are, in the opinion of the Competent Authority, projects or types of projects for the renewal or upgrading of structural subsystems.

(2) In deciding whether a project or type of project is for the renewal or upgrading of [F103a] structural subsystem factors to be taken into account by the Competent Authority must include—

- (a) the scale of the project assessed by reference to its economic cost and benefits;
- (b) the impact of the project on the rail system having regard to its effect on safety, reliability and availability, health, environmental protection and [F104, technical compatibility and accessibility] F105; and
- (c) the impact of the application of any relevant [F106NTSN] to the subsystem and any interfacing subsystems.

(3) If a project is named or described or is of a type named or described in accordance with this regulation it is for the purposes of these Regulations deemed to be a project for the renewal or upgrading of a structural subsystem.

F103 Word in [reg. 12\(2\)](#) inserted (8.1.2016) by [The Railways \(Interoperability\) \(Amendment\) Regulations 2015](#) (S.I. 2015/2022), regs. 1, **2(3)**

F104 Words in [reg. 12\(2\)\(b\)](#) substituted (1.1.2014) by [The Railways \(Interoperability\) \(Amendment\) Regulations 2013](#) (S.I. 2013/3023), regs. 1, **2(3)**

F105 See the general requirements listed in annex III to the Directive.

F106 Word in reg. 12(2)(c) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(17); 2020 c. 1, Sch. 5 para. 1(1)

Authorisation requirements for the renewal or upgrading of subsystems

13.—(1) In relation to a project for the renewal or upgrading of a structural subsystem, the project entity may apply in writing to the Competent Authority for a decision as to whether an authorisation is required.

(2) In order for an application made under paragraph (1) to be valid it must be accompanied by the following information—

- (a) a file setting out details of the project;
- (b) the project entity's assessment of whether there are any new or changed safety risks resulting from the works envisaged and how any such risks will be managed;
- (c) identification of any [^{F107}NTSN, or part of an NTSN], for which [^{F108}exemptions] may or will be sought pursuant to regulation 14; and
- (d) an indication of any [^{F109}NTSN, or part of an NTSN], which it is proposed should not apply if the Competent Authority determines that the subsystem requires authorisation.

(3) The Competent Authority may give notice in writing to the project entity requiring the project entity to provide, by a specified date, additional information that the Competent Authority considers necessary in order to make a decision.

(4) The project entity must provide the Competent Authority with such additional information requested under paragraph (3) as the project entity is reasonably able to supply and the project entity must give an explanation in writing where the information requested is not supplied.

(5) In making a decision as to the requirement for authorisation, factors to be taken into account by the Competent Authority must include—

- (a) the implementation [^{F110}plan] provided in relation to any applicable [^{F111}NTSN]; and
- (b) the extent of the proposed works.

(6) Except where the Competent Authority and the Safety Authority are the same person, the Competent Authority may only decide authorisation is not required if it has consulted the Safety Authority.

(7) If it appears to the Competent Authority that the proposed works may adversely affect the overall safety of the subsystem the Competent Authority must decide that the subsystem requires authorisation.

(8) Where the Competent Authority determines that the subsystem requires an authorisation the Competent Authority, subject to any [^{F112}exemptions under regulations 14 and 14A], must decide to what extent [^{F113}NTSNs] must apply to the project subsystem.

(9) The Competent Authority must make the decisions not later than four months after the submission of the information required by paragraph (2).

F107 Words in reg. 13(2)(c) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(18)(a)(i); 2020 c. 1, Sch. 5 para. 1(1)

F108 Word in reg. 13(2)(c) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(18)(a)(ii); 2020 c. 1, Sch. 5 para. 1(1)

F109 Words in reg. 13(2)(d) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(18)(b); 2020 c. 1, Sch. 5 para. 1(1)

- F110** Word in reg. 13(5)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(18)(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F111** Word in reg. 13(5)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(18)(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F112** Words in reg. 13(8) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(18)(d)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F113** Word in reg. 13(8) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(18)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Exemption from need to conform with [F114]NTSNs (exemptions)

14.—(1) The Competent Authority may determine that, in the circumstances or cases specified in paragraph (2), the whole or part of a relevant [F115]NTSN is not to apply in relation to a subsystem (“[F116]an exemption”).

(2) The circumstances or cases are—

(a) any project which—

(i) is for a proposed new subsystem;

(ii) is for the renewal or upgrading of an existing subsystem; or

[F117](iii) concerns the design, construction, placing in service, upgrading, renewal, operation and maintenance of the parts of the rail system as well as the professional qualifications and health and safety conditions of the staff who contribute to its operation and maintenance,]

and the project is at an advanced stage of development having regard to the impact that a change in technical specification would have on the project or the project is the subject of a contract in the course of performance when the applicable [F115]NTSN is published;

(b) any project concerning the renewal or upgrading of an existing subsystem, where the loading gauge, track gauge, space between tracks or electrification voltage in the applicable [F115]NTSN is not compatible with those of the existing subsystem;

[F118](c)

(d) any proposed renewal, extension or upgrading of an existing subsystem when the application of an applicable [F115]NTSN would compromise the economic viability of the project or the compatibility of the project with the rail system in the United Kingdom;

(e) following an accident or natural disaster, where the conditions for the rapid restoration of the network do not economically or technically allow for partial or total application of an applicable [F115]NTSN; and

[F119](f) a project which employs innovative solutions which either do not comply with the relevant NTSNs or to which the assessment methods in those NTSNs cannot be applied.]

[F120](2A) In this regulation and in regulation 14A, a reference to a project at an advanced stage of development means a project whose planning or construction stage has reached a point where the impact of a change in technical specifications would present a significant legal, contractual, economic, financial, social or environmental impediment to the project concerned.]

[F121](3)

[F121](4)

[F121](5)

[F121](6)

- F114** Words in [reg. 14](#) heading substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(19)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F115** Word in [reg. 14](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(19)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F116** Words in [reg. 14\(1\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(19)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F117** [Reg. 14\(2\)\(a\)\(iii\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(19)(d)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F118** [Reg. 14\(2\)\(c\)](#) omitted (31.12.2020) by virtue of [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(19)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F119** [Reg. 14\(2\)\(f\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(19)(d)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F120** [Reg. 14\(2A\)](#) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(19)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
- F121** [Reg. 14\(3\)–\(6\)](#) omitted (31.12.2020) by virtue of [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(19)(f)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F122}Application for exemptions

14A.—(1) Where a project entity applies for an exemption under regulation 14, they must apply to the Competent Authority in writing.

(2) The following information must be included in the application for an exemption—

- (a) a description of the work, goods and services subject to the exemption, specifying the key dates, the location, and the operational and technical area;
- (b) a precise reference to the NTSN (or its parts) from which an exemption is sought;
- (c) a precise reference to, and details of, the alternative provisions which will be applied;
- (d) for requests made under regulation 14(2)(a), evidence in support of the fact that the project is at an advanced stage of development;
- (e) for requests made under regulation 14(2)(f), information which outlines how the solution deviates from or complements the applicable NTSNs;
- (f) justification of the exemption, including the main reasons of a technical, economic, commercial, operational and/or administrative nature; and
- (g) any other information justifying the application for an exemption.

(3) After receipt of the information specified in paragraph (2), the Competent Authority must determine the application for an exemption.

(4) When the Competent Authority has made a determination it must inform the applicant of that determination.

(5) When the Competent Authority makes a determination of a case under regulation 14(2)(f) (innovative solutions), and informs the applicant of the outcome of the application, the Competent Authority must also publish its determination.]

- F122** [Reg. 14A](#) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(20)**; 2020 c. 1, Sch. 5 para. 1(1)

Essential requirements for project subsystems

15.—(1) For the purposes of these Regulations, the essential requirements for a project subsystem are deemed to be met if the project subsystem conforms with —

- (a) all applicable [^{F123}NTSNs];
- (b) where paragraph (2) applies, the requirements of all applicable [^{F124}NTRs], subject to any dispensation granted under regulation 46(1); and
- (c) where such a dispensation applies, any conditions of that dispensation.

[^{F125}(1A) For the purposes of paragraph (1)(a), a project subsystem is deemed to conform with an applicable NTSN, save for any UK specific case set out in that NTSN, if—

- (a) the person applying for an authorisation provides evidence that the project subsystem has been assessed under EU law as conforming with a TSI in force at the time when the application for authorisation is made; and
- (b) the applicable NTSN specifies that it substantially reproduces the provisions of that TSI, in accordance with regulation 3B(7).]

(2) This paragraph applies to a project subsystem where—

- (a) there are no applicable [^{F126}NTSNs];
- (b) a relevant [^{F127}NTSN] does not govern all elements of the project subsystem;
- [^{F128}(c) an exemption from conformity with the whole or part of a relevant NTSN has been granted in accordance with regulations 14 and 14A in relation to that subsystem; or]
- (d) the Competent Authority has determined under regulation 13 that the whole or part of [^{F129}an NTSN] does not apply to that subsystem.

F123 Word in reg. 15(1)(a) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(21)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F124 Word in reg. 15(1)(b) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(21)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F125 Reg. 15(1A) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(21)(c)** (as amended by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/318), regs. 1(2)(b), **5(6)**); 2020 c. 1, **Sch. 5 para. 1(1)**

F126 Word in reg. 15(2)(a) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(21)(d)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F127 Word in reg. 15(2)(b) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(21)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F128 Reg. 15(2)(c) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(21)(d)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)

F129 Words in reg. 15(2)(d) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(21)(d)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)

Role of project entity

16.—(1) In order for an application for an authorisation to be valid a project entity must—

- [^{F130}(a) engage an EU notified body to carry out the EC verification assessment procedure, or engage an approved body to carry out the UK verification assessment procedure, other than in relation to UK specific rules;]

- (b) ensure that [^{F131}an EU notified body or an approved body] (whether that originally engaged or another) continues to be engaged until authorisation under these Regulations is given or refused; and
 - (c) if there are applicable [^{F132}UK specific rules], engage a designated body, ^{F133}... to carry out the [^{F134}UK] verification assessment procedure in relation to the [^{F132}UK specific rules] in accordance with regulation 17 [^{F135}and Schedule 4].
- (2) The engagement of [^{F136}an EU notified body or an approved body] under paragraph (1)(a) must be made—
- (a) before completion of the design stage of the project subsystem; or
 - (b) before commencement of the manufacture stage of the project subsystem,
- whichever is the earlier.
- (3) A project entity must not draw up a [^{F137}UK declaration of verification] in relation to that project subsystem unless—
- (a) the project entity is satisfied the essential requirements are met (including interfaces with the rail system);
 - [^{F138}(b) either—
 - (i) the EC verification assessment procedure has been carried out by an EU notified body, or
 - (ii) the UK verification assessment procedure has been carried out by an approved body, and, if applicable in either case, the UK verification assessment procedure has been carried out by a designated body;]
 - [^{F139}(c) either—
 - (i) an EC certificate of verification has been drawn up by an EU notified body, or
 - (ii) a UK certificate of verification has been drawn up by an approved body, and, if applicable in either case, a UK certificate of verification has been drawn up by a designated body; and]
 - (d) a technical file has been prepared containing the information and documents specified in regulation 17(2) and, if applicable, regulation 17(5).
- ^{F140}(4)
- (5) This regulation and regulation 17 do not apply where an authorisation is being applied for under regulation [^{F141}6(1)] .
- (6) Where regulation 9 or 10 applies, this regulation and regulation 17 only apply to the extent necessary to satisfy the Safety Authority that an authorisation must be granted under these Regulations.

F130 Reg. 16(1)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(22)(b); 2020 c. 1, Sch. 5 para. 1(1)

F131 Words in reg. 16(1)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(22)(c); 2020 c. 1, Sch. 5 para. 1(1)

F132 Words in reg. 16 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(22)(a); 2020 c. 1, Sch. 5 para. 1(1)

F133 Words in reg. 16(1)(c) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(22)(d)(i); 2020 c. 1, Sch. 5 para. 1(1)

F134 Word in reg. 16(1)(c) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(22)(d)(ii); 2020 c. 1, Sch. 5 para. 1(1)

- F135** Words in reg. 16(1)(c) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(22)(d)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F136** Words in reg. 16(2) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(22)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
- F137** Words in reg. 16(3) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(22)(f)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F138** Reg. 16(3)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(22)(f)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F139** Reg. 16(3)(c) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(22)(g)**; 2020 c. 1, Sch. 5 para. 1(1)
- F140** Reg. 16(4) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(22)(h)**; 2020 c. 1, Sch. 5 para. 1(1)
- F141** Word in reg. 16(5) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(22)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

Project subsystems: [F142UK] verification assessment procedure

17.—(1) The [F143UK] verification assessment procedure for [F144an approved body] carrying out an assessment ^{F145}... is—

- (a) in so far as that subsystem is required to conform with all or part of a [F146NTSN], the procedures specified in the [F146NTSN] or part of the [F146NTSN] with which that subsystem is required to conform; and
- (b) the applicable procedure set out in [F147Schedule 4].

(2) The [F148approved body] carrying out an assessment ^{F149}... must—

- (a) compile a technical file containing—
 - (i) the items required by section 2.4 of [F150Schedule 4], including the certificate of verification;
 - (ii) documents relating to the conditions and limits of use of the project subsystem;
 - (iii) documents relating to the characteristics of the project subsystem;
 - (iv) manuals and instructions relating to the servicing, constant or routine monitoring, adjustment and maintenance of the project subsystem;
 - (v) documentation or records of any decision of the Competent Authority under regulation 13(8) as to the extent to which any [F151NTSN] applies to the project subsystem; and
 - [F152(vi) documentation or records of a determination of the Competent Authority in relation to an exemption from an applicable NTSN, pursuant to regulations 14 and 14A; and;]
- (b) assess the interface between the project subsystem and the rail system to the extent that such an assessment is possible based on the available information referred to in paragraph (3).

(3) The assessment under paragraph (2)(b) must be based on information available in the relevant [F153NTSN] and in any registers [F154or lists] kept in accordance with [F155regulations 8 (Determination of type), 35 (Register of infrastructure) and 36 (National vehicle register)].

(4) The [F156UK] verification assessment procedure for a body carrying out an assessment in relation to [F157UK specific rules] is the applicable procedure set out in [F158Schedule 4].

(5) The body carrying out an assessment in relation to [F159UK specific rules] must compile a technical file in accordance with [F160Schedule 4].

- F142** Word in reg. 17 heading inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F143** Word in reg. 17(1) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(b)(i)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F144** Words in reg. 17(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(b)(i)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F145** Words in reg. 17(1) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(b)(i)(cc)**; 2020 c. 1, Sch. 5 para. 1(1)
- F146** Word in reg. 17(1)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F147** Words in reg. 17(1)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F148** Words in reg. 17(2) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(c)(i)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F149** Words in reg. 17(2) omitted (31.12.2020) by virtue of The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(c)(i)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F150** Words in reg. 17(2)(a)(i) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(c)(ii)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F151** Word in reg. 17(2)(a)(v) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(c)(ii)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F152** Reg. 17(2)(a)(vi) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(c)(ii)(cc)**; 2020 c. 1, Sch. 5 para. 1(1)
- F153** Word in reg. 17(3) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(d)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F154** Words in reg. 17(3) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F155** Words in reg. 17(3) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(d)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F156** Word in reg. 17(4) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
- F157** Words in reg. 17(4) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(f)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F158** Words in reg. 17(4) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(f)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F159** Words in reg. 17(5) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(f)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F160** Words in reg. 17(5) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(23)(f)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Project subsystems: [^{F161}UK declaration of verification]

18.—(1) A project subsystem in relation to which a [^{F162}UK declaration of verification] has been drawn up is presumed for the purposes of these Regulations to meet the essential requirements unless there are reasonable grounds for believing that it does not so conform.

(2) The presumption set out in paragraph (1) does not apply where a person fails or refuses to make available to the Safety Authority the documentation which the person is required to retain by the [^{F163}UK] verification assessment procedure applying to the project subsystem or pursuant to regulation 19, or a copy of that documentation.

- F161** Words in reg. 18 heading substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(24)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

- F162** Words in reg. 18(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(24)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F163** Word in reg. 18(2) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(24)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Retention of documents

19.—(1) From the time a project subsystem authorised under these Regulations is placed in service until it is permanently withdrawn from service (whether such service is in the United Kingdom or another [^{F164}country]), the project entity who made the [^{F165}UK declaration of verification] must—

(a) keep the following documents—

(i) the technical file compiled in accordance with regulations 6(3)(b) [^{F166}or (c)] or 17(2)(a) or (5) (where there is more than one file the project entity must combine the files and keep them as one);

[^{F167}(ii) the relevant UK declaration of verification, and;]

(iii) any declaration made in accordance with regulation 9(2)(a); and

(b) provide a copy of the technical file to [^{F168}the national body responsible for railway safety in the country in which the project subsystem is used, in response to a reasonable request from that body.]

(2) The project entity must ensure that—

(a) any alterations made to the project subsystem are documented;

(b) the documentation recording any alterations and any maintenance manuals in relation to the project subsystem are added to and kept as part of the technical file; and

(c) any safety assessment report is added to and kept as part of the technical file.

(3) Where the project entity is not the owner of the project subsystem when it is authorised under these Regulations, the project entity must within 60 days of the date of authorisation transfer the documents referred to in paragraphs (1) and (2) to the owner of the subsystem, and once this is done for the purpose of paragraphs (1) and (2) the owner is to be regarded for the purposes of this regulation as the project entity.

(4) Where an owner of the project subsystem disposes of the owner's interest in it, the owner must within 60 days of the disposal transfer the documents referred to in paragraphs (1) and (2) to the person acquiring that interest, and once this is done for the purpose of paragraphs (1) and (2) and this paragraph, the person acquiring that interest is to be regarded for the purposes of this regulation as the project entity.

(5) The project entity must make the technical file, or the documents kept in accordance with paragraph (7)(b), available to the Safety Authority on demand.

(6) The duties of the project entity, or an owner of a project subsystem, under paragraphs (1), (2)(b) and (c) and (3) to (5) do not apply in respect of an authorisation deemed to be given under these Regulations by the operation of regulation 44.

(7) In respect of a project subsystem authorised under regulation 9 the duties of the project entity under paragraphs (1) and (2) are limited to keeping—

(a) the declaration made in accordance with regulation 9(2)(a); and

(b) documentation recording any alterations and any maintenance manuals in relation to the project subsystem.

- F164** Word in reg. 19(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(25)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F165** Words in reg. 19(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(25)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F166** Words in reg. 19(1)(a)(i) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(25)(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F167** Reg. 19(1)(a)(ii) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(25)(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F168** Words in reg. 19(1)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(25)(d)**; 2020 c. 1, Sch. 5 para. 1(1)

Continuing duty on operator in relation to standards

20.—(1) This regulation applies where a project subsystem is in use on, or is part of, the rail system with an authorisation under these Regulations.

(2) Subject to paragraph (3), the operator of the project subsystem must ensure that the project subsystem is operated and maintained—

- (a) subject to [^{F169}sub-paragraphs (b) and (ba)], in conformity with [^{F170}either the TSIs and notified national technical rules, or the NTSNs and NTRs] against which the subsystem was assessed for that authorisation;
 - (b) where [^{F171}an NTSN or NTR] referred to in sub-paragraph (a) has been varied or replaced, either in conformity with the varied or replaced [^{F172}NTSN or NTR] or in conformity with the original [^{F172}NTSN or NTR];
 - [^{F173}(ba) where a TSI or notified national technical rule referred to in sub-paragraph (a) has been replaced by an NTSN or by an NTR, either in conformity with the relevant NTSN or NTR currently in force or in conformity with the original TSI or rule,]
 - (c) in conformity with any functional [^{F174}NTSN] applying to that subsystem; and
 - (d) in accordance with any condition in the authorisation to the extent that the condition still applies.
- (3) Where—
- (a) a project subsystem—
 - (i) was assessed for authorisation against notified national technical rules that were the Rail Vehicle Accessibility Regulations 1998 ^{F175} as in force when the project was assessed, or
 - (ii) is deemed under regulation 44(1)(b) to have been assessed against the requirements referred to in that sub-paragraph, and
 - (b) an exemption order made or treated as having been made under section 183 of the Equality Act 2010 ^{F176} has effect in relation to that project subsystem,

the duty in paragraph (2)(a) to ensure that the project subsystem is operated and maintained in conformity with those Regulations or requirements is a duty to do so save to the extent the order exempted it from those Regulations or requirements, even though the order may include a provision for the expiry of such exemption.

(4) Paragraph (2) is without prejudice to regulation 45.

[^{F177}(5) In this regulation—

“functional NTSN” means an NTSN applying to a functional subsystem;

“project subsystem” includes a vehicle deemed to be authorised under these Regulations by the operation of regulation 44.]

- F169** Words in reg. 20(2)(a) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(26)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F170** Words in reg. 20(2)(a) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(26)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F171** Words in reg. 20(2)(b) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(26)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F172** Words in reg. 20(2)(b) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(26)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F173** Reg. 20(2)(ba) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(26)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F174** Word in reg. 20(2)(c) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(26)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F175** S.I. 1998/2456, amended by S.I. 2000/3215 and S.I. 2008/1746 and revoked by S.I. 2010/432.
- F176** 2010 c.15. See article 21(1) and schedule 7 of S.I. 2010/2317 for saving provisions.
- F177** Reg. 20(5) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), **2(26)(e)**; 2020 c. 1, Sch. 5 para. 1(1)

Fees payable to the Safety Authority

21.—(1) The Safety Authority may charge a person applying for an authorisation a fee that must—

- (a) not exceed the sum of the costs reasonably incurred by the Safety Authority in carrying out the work relating to the application; and
- (b) be set out in an invoice that includes a statement of the work done and the costs reasonably incurred and specifies the period to which the statement relates.

(2) A fee charged under this regulation must be paid on or before the 30th day after the date of the invoice that the Safety Authority has sent or given to the person who is required to pay the fee, or on such later day as the Safety Authority has specified.

(3) A fee that has not been paid in accordance with paragraph (2) is recoverable as a civil debt.

(4) Failure to pay a fee does not constitute an offence.

(5) This regulation does not apply where the Intergovernmental Commission is the Safety Authority.

Fees payable to the Competent Authority

22. The Competent Authority may charge such reasonable fee in connection with, or incidental to, carrying out its functions under regulations 13 and 14, as it may determine.

PART 3

Interoperability Constituents

Prohibition on placing interoperability constituents on the market

[^{F178}23.—(1) No person may place an interoperability constituent on the market for which there is an applicable NTSN with a view to its use on the rail system, unless—

- (a) the interoperability constituent meets the essential requirements that are relevant to an interoperability constituent of that type;
 - (b) the appropriate procedure for assessing the conformity or suitability for use of the interoperability constituent has been carried out; and
 - (c) subject to paragraph (2), a UK declaration of conformity or suitability for use in relation to that interoperability constituent has been drawn up.
- (2) A person may place an interoperability constituent on the market in reliance on an EC declaration of conformity or suitability for use drawn up in relation to that interoperability constituent where one of the following conditions applies—
- (a) an EC declaration of conformity or suitability for use was drawn up before, on or before or after IP completion day, and there is no UK specific case applicable to the interoperability constituent; or
 - (b) all of the following apply—
 - (i) an EC declaration of conformity or suitability for use was drawn up before IP completion day,
 - (ii) there is a UK specific case applicable to the interoperability constituent,
 - (iii) there is no material difference between the technical specifications of the applicable UK specific case and a pre-exit specific case against which the interoperability constituent was previously assessed, and
 - (iv) there are no other applicable UK specific cases.
- (3) In this regulation, “a pre-exit specific case” means special provision in relation to the technical specifications for subsystems and interoperability constituents to allow for their compatibility with the rail system, which was applicable to the interoperability constituent and was set out and described in a TSI or notified national technical rule before IP completion day.
- (4) In this regulation, a “material difference” in relation to technical specifications does not include the replacement of the standards contained in TSIs or notified national technical rules by the standards set by the Secretary of State in accordance with regulations 3B and 3C, and contained (on or after IP completion day) in NTSNs or NTRs.]

F178 Reg. 23 substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(27)** (as amended by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **4(5)(a)(i)**, 4(5)(a)(ii), 4(5)(b), 4(5)(c)); 2020 c. 1, **Sch. 5 para. 1(1)**

Assessment procedure for interoperability constituents

24.—(1) [^{F179}Subject to paragraph (4),] if required by the [^{F180}applicable NTSN], the procedures for assessing the conformity or suitability for use of an interoperability constituent must be carried out by [^{F181}an approved body or, where assessment against an applicable UK specific case is required, a designated body].

(2) The appropriate procedures for assessing the conformity or suitability for use of an interoperability constituent are, subject to paragraph (3), the procedures indicated in the [^{F180}applicable NTSN].

(3) Spare parts for subsystems that were placed in service before the applicable [^{F182}NTSN] came into force are not subject to the procedures referred to in paragraph (2).

[^{F183}(4) Except for cases which fall within regulation 23(2), where an EC declaration of conformity or suitability for use has already been drawn up, an assessment of the conformity or

suitability for use against an applicable UK specific case must be carried out by a designated body in accordance with the procedure set out in the NTSN concerning the further assessment of interoperability constituents which hold an EC declaration of conformity or suitability for use.]

- F179** Words in [reg. 24\(1\)](#) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(28)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F180** Words in [reg. 24](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(28)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F181** Words in [reg. 24\(1\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(28)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F182** Word in [reg. 24\(3\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(28)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F183** [Reg. 24\(4\)](#) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(28)(e)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F184}UK] declaration of conformity or suitability for use

25.—[^{F185}(1) Where neither a UK declaration of conformity or suitability for use, nor an EC declaration of conformity or suitability for use which satisfies one of the conditions in regulation 23(2) has been drawn up by the manufacturer or the manufacturer’s representative, a UK declaration of conformity or suitability for use must be drawn up by any person who—]

- (a) places that interoperability constituent on the market; or
- (b) uses that interoperability constituent, or any part of it, in any other interoperability constituent that the person is manufacturing or assembling, or in any project subsystem that the person is constructing, upgrading or renewing

before the person places the interoperability constituent on the market with a view to its use on the rail system or uses it or any part of it on the rail system.

(2) [^{F186}A UK declaration] of conformity or suitability for use must be drawn up in accordance with the requirements of [^{F187}Schedule 7].

[^{F188}(3) A person may only draw up a UK declaration of conformity or suitability for use if satisfied that the interoperability constituent satisfies the relevant conditions of the applicable NTSN, including any applicable UK specific case.]

(4) If an interoperability constituent is subject to other requirements of [^{F189}any enactment or rule of law], a person may only draw up [^{F190}a UK] declaration of conformity or suitability for use if satisfied that the interoperability constituent meets those other requirements and the person must state in the declaration that the interoperability constituent meets those other requirements.

[^{F191}(5) In this regulation, and in Schedule 7, the “manufacturer’s representative” means either an authorised representative or a person appointed by the manufacturer to perform specified tasks relating to the conformity or suitability for use of interoperability constituents, on or after IP completion day.]

- F184** Word in [reg. 25 heading](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(29)(a)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F185** Words in [reg. 25\(1\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(29)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F186** Words in [reg. 25\(2\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(29)(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

- F187** Words in reg. 25(2) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(29)(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F188** Reg. 25(3) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(29)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F189** Words in reg. 25(4) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(29)(e)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F190** Words in reg. 25(4) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(29)(e)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F191** Reg. 25(5) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(29)(f)** (as amended by The Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020 (S.I. 2020/786), regs. 1(2)(b)(i), **4(6)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Effect of [^{F192}declarations of conformity or suitability for use]

26.—(1) An interoperability constituent in relation to which [^{F193}a UK] declaration of conformity or suitability for use [^{F194}or an EC declaration of conformity or suitability for use which satisfies the criteria set out in regulation 23(2)(a) or (b)] has been drawn up is presumed for the purpose of these Regulations to—

- (a) meet such of the essential requirements as relate to an interoperability constituent of that type; and
- (b) conform to the applicable [^{F195}NTSN],

unless there are reasonable grounds for believing that it does not so conform.

(2) The presumption set out in paragraph (1) does not apply where a person fails or refuses to make available to the Safety Authority the documentation which the person is required to retain by any of the procedures for assessing the conformity or suitability for use of that interoperability constituent or a copy of that documentation.

- F192** Words in reg. 26 heading substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(31)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F193** Words in reg. 26(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(31)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F194** Words in reg. 26(1) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(31)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F195** Word in reg. 26(1)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(31)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Duties on operators

27. The operator of any interoperability constituent for which there is an applicable [^{F196}NTSN] that is in use on, or is part of, the rail system ^{F197}... must ensure that it is—

- (a) correctly installed for the purpose for which it is intended to be used;
- (b) not used for any purpose other than the purpose for which it was designed; and
- (c) maintained in effective working order and good repair.

- F196** Word in reg. 27 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(32)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F197 Words in [reg. 27](#) omitted (31.12.2020) by virtue of [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(32)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Recognition of assessments of other Member States

F198 **28.**

F198 [Reg. 28](#) omitted (31.12.2020) by virtue of [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(33)**; 2020 c. 1, Sch. 5 para. 1(1)

Notification to the [^{F199}European] Commission of incorrect declaration

29.—(1) Where it appears to the Safety Authority that an interoperability constituent in relation to which an EC declaration of conformity or suitability for use has been drawn up fails to meet the essential requirements relating to it, it [^{F200}may] give notice of that fact in writing to the [^{F201}European Commission and EU Member States].

(2) That notice [^{F202}may] specify—

- (a) whether the failure to comply was due to the inadequacy of a TSI; and
- (b) if it was not—
 - (i) the steps taken to prohibit or restrict the use of that interoperability constituent or withdraw or recall the interoperability constituent;
 - (ii) the reasons for taking those steps; and
 - (iii) any measures taken against a person who drew up the declaration.

[^{F203}(3) This regulation does not apply in relation to the Channel Tunnel system.]

F199 Word in [reg. 29](#) heading inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(34)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F200 Word in [reg. 29\(1\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(34)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F201 Words in [reg. 29\(1\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(34)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F202 Word in [reg. 29\(2\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(34)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F203 [Reg. 29\(3\)](#) inserted by S.I. 2019/345, reg. 2(34)(d) (as substituted) by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/318\)](#), regs. 1(2) (b), **5(7)**

PART 4

[^{F204}Approved and Designated Bodies]

F204 [Pt. 4](#) heading substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(35)**; 2020 c. 1, Sch. 5 para. 1(1)

Approved bodies

[^{F205}30.—(1) An approved body is a body which—

- (a) has been approved by the Secretary of State pursuant to the procedure set out in regulation 31; or
 - (b) immediately before IP completion day was a notified body which has not received notice from the Secretary of State terminating its appointment as a notified body.
- (2) In this Regulation, “a notified body” means a body which has been—
- (a) appointed by the Strategic Rail Authority as a notified body and notified to the European Commission and EU Member States pursuant to regulation 5 of the Railways (Interoperability) (High-Speed) Regulations 2002;
 - (b) appointed by the Secretary of State as a notified body and notified to the European Commission and EU Member States pursuant to regulation 25 of the Railways (Interoperability) Regulations 2006 or regulation 31 of these Regulations as they had effect immediately before IP completion day.]

F205 Reg. 30 substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(36)** (as amended by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **4(7)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Appointment of [^{F206}approved bodies] and designated bodies

31.—(1) The Secretary of State may from time to time appoint by notice in writing (an “appointment”) such persons as the Secretary of State thinks fit to be [^{F207}an approved body] or a designated body for the purposes of these Regulations.

(2) The Secretary of State must not appoint any person as [^{F207}an approved body] or a designated body in accordance with paragraph (1) unless—

- (a) the person has applied to be so appointed; and
- (b) the Secretary of State is satisfied that the person is capable of meeting the criteria specified in [^{F208}Schedule 8].

(3) For the purposes of this regulation, [^{F209}Schedule 8] applies to a designated body as it applies to [^{F207}an approved body].

(4) An appointment—

- (a) relates to such descriptions of structural subsystems and interoperability constituents of the rail system as the Secretary of State may specify; and
- (b) is subject to such conditions as the Secretary of State may specify, including such conditions as are to apply upon or following termination of the appointment.

(5) Subject to paragraphs (6)(b) and (c) and (7), an appointment is for such period as may be specified in the appointment.

(6) An appointment terminates—

- (a) upon the expiry of any period specified in the appointment pursuant to paragraph (5);
- (b) upon the expiry of 90 days notice in writing given by the [^{F210}approved] body or the designated body to the Secretary of State; or
- (c) on any date specified for the termination of the appointment in accordance with paragraph (7),

whichever is the earliest.

(7) If at any time it appears to the Secretary of State in relation to [^{F207}an approved body] appointed by the Secretary of State or the Strategic Rail Authority or in relation to a designated body that—

- (a) any of the conditions of the appointment of that body are not being complied with; or
- (b) the body is not meeting the criteria specified in [^{F211}Schedule 8],

the Secretary of State may, by notice in writing to that body, specify a date on which the appointment of that person as a body is to terminate.

(8) Before terminating the appointment of a person as [^{F207}an approved body] or designated body pursuant to the grounds specified in paragraph (7) the Secretary of State must—

- (a) notify the [^{F212}approved] body or designated body in writing that—
 - (i) the Secretary of State is considering terminating the appointment and the reasons why; and
 - (ii) the [^{F212}approved] or designated body may make representations in writing within 14 days beginning with the day on which such notice is given; and
- (b) consider any representations made within that period by the [^{F213}approved] body or the designated body before making a decision.

(9) When the appointment of [^{F207}an approved body] is terminated in accordance with paragraph (6) the Secretary of State may—

- (a) give such directions as the Secretary of State considers appropriate, to that [^{F214}approved] body or to another [^{F214}approved] body, for the purpose of making such arrangements as may be necessary or expedient for the determination of any matters which would, apart from the termination, have fallen to be determined by the [^{F214}approved] body whose appointment has terminated; and
- (b) without prejudice to the generality of sub-paragraph (a), authorise another [^{F215}approved] body, to take over the functions of the [^{F215}approved] body whose appointment has terminated, in respect of such matters as the Secretary of State may specify.

(10) When the appointment of a designated body is terminated in accordance with paragraph (6) the Secretary of State may—

- (a) give such directions as the Secretary of State considers appropriate, to that designated body or to another designated body, for the purpose of making such arrangements as may be necessary or expedient for the determination of any matters which would, apart from the termination, have fallen to be determined by the designated body whose appointment has terminated; and
- (b) without prejudice to the generality of sub-paragraph (a), authorise another designated body, to take over the functions of the designated body whose appointment has terminated, in respect of such matters as the Secretary of State may specify.

- F206** Words in [reg. 31](#) heading substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(37\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F207** Words in [reg. 31](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(37\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F208** Words in [reg. 31\(2\)\(b\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(37\)\(d\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F209** Words in [reg. 31\(3\)](#) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(37\)\(d\)](#); 2020 c. 1, Sch. 5 para. 1(1)

- F210** Word in reg. 31(6)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F211** Words in reg. 31(7)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F212** Word in reg. 31(8)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F213** Word in reg. 31(8)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F214** Word in reg. 31(9)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F215** Word in reg. 31(9)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F216}Approved bodies] and designated bodies: certificates etc.

32.—(1) Where [^{F217}an approved body] or designated body proposes to decline to draw up a [^{F218}UK] certificate of verification or an ISV in relation to a project subsystem, or proposes to decline to confirm that [^{F219}a UK declaration] of conformity or suitability for use can be drawn up in respect of an interoperability constituent, it must—

- (a) give notice in writing to the relevant person of the reasons why it proposes to do so;
- (b) give the relevant person the opportunity to make representations in writing within a period of 28 days beginning with the day on which such notice is given; and
- (c) consider any representations made within that period by the relevant person before making its decision.

(2) [^{F217}An approved body] or designated body must not draw up a [^{F220}UK] certificate of verification unless it is drawn up in accordance with the applicable part of [^{F221}Schedule 4].

(3) [^{F217}An approved body] must not confirm that [^{F222}a UK declaration] of conformity or suitability for use can be drawn up in respect of an interoperability constituent unless satisfied that that constituent conforms to such of the [^{F223}NTSs] as are required by regulation 25.

[^{F224}(3A) A designated body must not confirm that a UK declaration of conformity or suitability for use can be drawn up in respect of an interoperability constituent unless satisfied that the constituent conforms to such of the UK specific cases as are required by regulation 25.]

^{F225}(4)

(5) The “relevant person” means the person who engaged the [^{F226}approved body] or designated body for the relevant matter.

- F216** Words in reg. 32 heading substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F217** Words in reg. 32 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F218** Word in reg. 32(1) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F219** Words in reg. 32(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F220** Word in reg. 32(2) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F221** Words in reg. 32(2) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(e)**; 2020 c. 1, Sch. 5 para. 1(1)

- F222** Words in reg. 32(3) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F223** Word in reg. 32(3) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(f)**; 2020 c. 1, Sch. 5 para. 1(1)
- F224** Reg. 32(3A) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(g)**; 2020 c. 1, Sch. 5 para. 1(1)
- F225** Reg. 32(4) omitted (31.12.2020) by virtue of S.I. 2019/345, reg. 2(39)(ga) (as inserted by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(8)**)
- F226** Words in reg. 32(5) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(h)**; 2020 c. 1, Sch. 5 para. 1(1)

Fees of [^{F227}approved bodies] and designated bodies

33.—(1) Subject to paragraph (2), [^{F228}an approved body] or a designated body may charge such a fee in connection with, or incidental to, carrying out its functions in relation to these Regulations as it may determine.

(2) The fee charged pursuant to paragraph (1) must not exceed the sum of the following—

- (a) the costs incurred or to be incurred by the [^{F229}approved body] or the designated body in carrying out relevant work; and
- (b) an amount of profit which is reasonable in the circumstances having regard to—
 - (i) the character and extent of the work carried out by the [^{F230}approved body] or the designated body on behalf of the person commissioning the work; and
 - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(3) Subject to paragraph (4) the power in paragraph (1) includes the power to require the payment of a fee, or a reasonable estimate of the fee, in respect of the work commissioned in advance of carrying out that work.

(4) Unless the parties otherwise agree, an amount charged in accordance with paragraph (3) must not exceed a reasonable estimate of the fee for the work for the three months subsequent to the request for the advance payment.

- F227** Words in reg. 33 heading substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(40)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F228** Words in reg. 33(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(40)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F229** Words in reg. 33(2)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(40)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F230** Words in reg. 33(2)(b)(i) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(40)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Fees of the Secretary of State

34. The Secretary of State may charge such reasonable fee in connection with, or incidental to, carrying out the Secretary of State's functions under regulation 31 as the Secretary of State may determine.

[^{F231}Register of approved bodies

34A.—(1) The Secretary of State must—

- (a) assign an approved body identification number to each approved body; and
- (b) compile and maintain a register of—
 - (i) approved bodies;
 - (ii) their approved body identification number;
 - (iii) the activities for which they have been approved; and
 - (iv) any restrictions on those activities.

(2) The register referred to in paragraph (1) must be made publicly available.

F231 Regs. 34A, 34B inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(41)**; 2020 c. 1, Sch. 5 para. 1(1)

UK national accreditation body

34B.—(1) The Secretary of State may authorise the UK national accreditation body to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a body meets the approved body or designated body requirements;
- (b) exercising functions in accordance with regulation 31;
- (c) compiling and maintaining the register of approved bodies in accordance with regulation 34A.

(2) In this regulation—

“RAMS” means Regulation [\(EC\) No 765/2008](#) of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation [\(EEC\) No 339/93](#);

“UK national accreditation body” means the body appointed by the Secretary of State in accordance with Article 4 of RAMS.]

F231 Regs. 34A, 34B inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(41)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 5

Registers

Register of infrastructure

35.—(1) An owner of infrastructure must keep a register of its infrastructure or procure that the register is kept.

(2) The owner must ensure that in relation to its infrastructure—

- (a) the infrastructure register is maintained in accordance with the infrastructure specifications, subject to the transitional arrangements set out in [^{F232}Article 3 of the specifications Regulation];

- (b) refer in the infrastructure register to any rules or restrictions that have been notified to the owner in accordance with regulation 46(2); and
 - (c) the infrastructure register is available on [^{F233}request by an applicant for authorisation under these Regulations, or by an approved body].
- [^{F234}(2A) The owner must make the information requested under paragraph (2)(c) available within 28 days of receiving the request.]
- (3) In this regulation—
- (a) “infrastructure” means any structural subsystem within the scope of the infrastructure specifications;
 - [^{F235}(b) “the infrastructure specifications”, means the specifications set out in the Annex to the specifications [^{F236}Regulation]; and
 - [^{F237}(c) “the specifications Regulation” means Commission Implementing Regulation (EU) 2019/777 of 16 May 2019 on the common specifications for the register of infrastructure and repealing Implementing [Decision 2014/880/EU](#).]

- F232** Words in reg. 35(2)(a) substituted (10.4.2020) by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/318\)](#), regs. 1(2)(a), **2(2)(a)**
- F233** Words in [reg. 35\(2\)\(c\)](#) substituted (31.12.2020) by S.I. 2019/345, reg. 2(41A)(a) (as inserted by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/318\)](#), regs. 1(2)(b), **5(9)**)
- F234** [Reg. 35\(2A\)](#) inserted by S.I. 2019/345, reg. 2(41A)(b) (as inserted) by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/318\)](#), regs. 1(2)(b), **5(9)**)
- F235** [Reg. 35\(3\)\(b\)\(c\)](#) substituted (8.1.2016) by [The Railways \(Interoperability\) \(Amendment\) Regulations 2015 \(S.I. 2015/2022\)](#), regs. 1, **2(4)**
- F236** Word in [reg. 35\(3\)\(b\)](#) substituted (10.4.2020) by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/318\)](#), regs. 1(2)(a), **2(2)(b)(i)**
- F237** [Reg. 35\(3\)\(c\)](#) substituted (10.4.2020) by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/318\)](#), regs. 1(2)(a), **2(2)(b)(ii)**

National vehicle register

36.—(1) This regulation applies to a vehicle for which there is an authorisation under these Regulations for it to be placed in service.

(2) If the Safety Authority issues an authorisation, the person who applied for the authorisation must apply to the registration entity for it to assign a European vehicle number before the vehicle is placed in service.

(3) The registration entity must assign a unique alphanumeric identification code (a “European vehicle number”) to each vehicle for which an application is made and maintain a register of vehicles (“National Vehicle Register”).

[^{F238}(4)]

(5) Any person who places in service a vehicle must ensure it is marked with the European vehicle number assigned to it.

(6) The person who applied for the authorisation must, no later than 14 days after the date of authorisation, provide particulars to the registration entity to enable the registration entity to enter the information on the National Vehicle Register that is necessary to conform to the common specifications referred to in paragraph (7), and such further information as the registration entity may reasonably require.

(7) In respect of particulars provided under paragraph (6) the registration entity must ensure that the National Vehicle Register conforms to the common specifications as set out in the Annex to Commission Decision [2007/756/EC](#)^{F239} as amended from time to time.

(8) Where there is a material change to any of the particulars provided under paragraph (6) or to any of the particulars provided under regulation 33(7) or (10) of the Railways (Interoperability) Regulations 2006^{F240}, the owner of the vehicle must ensure that the registration entity is given the particulars of the change and the registration entity must alter the National Vehicle Register accordingly.

[^{F241}(9) Where a vehicle is also registered in an EU Member State the registration entity may notify the entity responsible for the national vehicle register in that EU Member State of any relevant changes to the National Vehicle Register.]

(10) The registration entity must make the National Vehicle Register available for inspection—

[^{F242}(a) by the Safety Authority or the Rail Accident Investigation Branch;]

(b) in response to a reasonable request by—

[^{F243}(i) the Office of Rail and Road, DFI, the Intergovernmental Commission, or any EU regulatory body designated in accordance with relevant EU law,]

[^{F244}(ii) the European Union Agency for Railways]

(iii) railway undertakings;

(iv) infrastructure managers,^{F245} ...

(v) owners of project subsystems [^{F246}, or

(vi) the national body or bodies responsible for railway safety in the country where the project subsystem is used.]

(11) In Great Britain the Secretary of State and in Northern Ireland the [^{F247}DFI] must designate a person, who must be independent of any railway undertaking, to be the registration entity from time to time; and different persons may be designated to maintain the register in different parts of the United Kingdom.

F238 Reg. 36(4) omitted (31.12.2020) by virtue of [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(42\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)

F239 O.J. No. L 305, 23.11.2007, p30, as amended by Commission Decision 2011/107/EU (O.J. No. L43, 17.2.2011, p33).

F240 S.I. 2006/397, as amended by S.I. 2007/3386 and by regulation 4 of S.I. 2008/1746.

F241 Reg. 36(9) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(42\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

F242 Reg. 36(10)(a) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(42\)\(c\)\(i\)](#); 2020 c. 1, Sch. 5 para. 1(1)

F243 Reg. 36(10)(b)(i) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(42\)\(c\)\(ii\)\(aa\)](#); 2020 c. 1, Sch. 5 para. 1(1)

F244 Reg. 36(10)(b)(ii) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(42\)\(c\)\(ii\)\(bb\)](#); 2020 c. 1, Sch. 5 para. 1(1)

F245 Word in reg. 36(10)(b)(iv) omitted (31.12.2020) by virtue of [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(42\)\(c\)\(ii\)\(cc\)](#); 2020 c. 1, Sch. 5 para. 1(1)

F246 Reg. 36(10)(b)(vi) and word inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(42\)\(c\)\(ii\)\(dd\)](#); 2020 c. 1, Sch. 5 para. 1(1)

F247 Word in reg. 36(11) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), regs. 1(2), [2\(42\)\(d\)](#); 2020 c. 1, Sch. 5 para. 1(1)

PART 6

Appeals and Enforcement

Appeals in Great Britain

37.—(1) A person who is aggrieved by a decision of the Safety Authority under regulations 5 to 11 may appeal to the Secretary of State.

(2) The Secretary of State may, in such cases as the Secretary of State considers it appropriate to do so, having regard to the nature of the questions which appear to the Secretary of State to arise, direct that an appeal under this regulation is determined on the Secretary of State's behalf by a person appointed by the Secretary of State for that purpose.

(3) Before the determination of an appeal the Secretary of State must ask the appellant and the Safety Authority whether they wish to appear and be heard on the appeal and—

- (a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard;
- (b) the Secretary of State must, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of doing so.

(4) The Tribunals and Inquiries Act 1992 ^{F248} applies to a hearing held by a person appointed in pursuance of paragraph (2) to determine an appeal as it applies to a statutory inquiry held by the Secretary of State, but as if in section 10(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State included a reference to a decision taken on the Secretary of State's behalf by that person.

^{F249}(5)

(6) Without prejudice to the right of any person to make an application for judicial review—

- (a) a determination by the Secretary of State, or by a person appointed to make a determination on the Secretary of State's behalf, on an appeal brought under this regulation is binding on all parties affected by that determination;
- (b) the Secretary of State, or person so appointed, may give such directions as they consider appropriate to give effect to the determination; and
- (c) it is the duty of any person to whom a direction is given under this regulation to comply with and give effect to that direction.

(7) The Secretary of State may pay to any person appointed to determine an appeal under paragraph (2) on the Secretary of State's behalf such remuneration and allowances as the Secretary of State may with the approval of the Treasury determine.

(8) Where under paragraph (3)(b) a party expresses a wish to appear and be heard, for hearings held in England and Wales, the Health and Safety Licensing Appeals (Hearing Procedure) Rules 1974 ^{F250}, and for hearings held in Scotland, the Health and Safety Licensing Appeals (Hearing Procedure)(Scotland) Rules 1974 ^{F251}, apply to an appeal under paragraph (1) as they apply to an appeal under section 44(1) of the 1974 Act, but with the modification that references to a licensing authority in those rules are to be read as references to the Safety Authority.

(9) Where an appeal is made under this regulation, the decision in question is suspended pending the final determination of the appeal.

(10) This regulation does not apply to a decision of [F252DFI] under regulations 5 to 11.

F248 1992 c.53.

F249 Reg. 37(5) omitted (19.9.2013) by virtue of The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 92**

F250 S.I. 1974/2040.

F251 S.I. 1974/2068.

F252 Word in reg. 37(10) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(43)**; 2020 c. 1, Sch. 5 para. 1(1)

Appeals in Northern Ireland

38.—(1) A person who is aggrieved by a decision of the Safety Authority in Northern Ireland under regulations 5 to 11 may appeal to ^{F253}DFI .

(2) The appellant must lodge the appeal by way of an application in such form or manner as ^{F253}DFI may decide.

(3) ^{F253}DFI must within two months of the date of receipt of the information necessary for ^{F253}DFI to make its determination—

(a) make a determination; and

(b) where ^{F253}DFI considers it appropriate in order to give effect to the determination—

(i) arrange for the Safety Authority to take any necessary action; and

(ii) give directions.

(4) Without prejudice to the right of any person to make an application for judicial review—

(a) a determination by ^{F253}DFI on appeal brought under this regulation is binding on all parties affected by that determination; and

(b) it is the duty of any person to whom a direction is given under this regulation to comply with and give effect to that direction.

(5) Where an appeal is made under this regulation, the decision in question is suspended pending the final determination of the appeal.

F253 Word in reg. 38 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(44)**; 2020 c. 1, Sch. 5 para. 1(1)

Enforcement in Great Britain

39.—(1) It is the duty of the ^{F254}Office of Rail and Road to make adequate arrangements for the enforcement of these Regulations in Great Britain.

(2) Subject to paragraph (5), the provisions of the 1974 Act specified in paragraph (3) (the “specified provisions”) apply for the purposes of the enforcement of these Regulations in Great Britain as if in the specified provision—

(a) a reference to the “enforcing authority” was a reference to the ^{F254}Office of Rail and Road;

(b) a reference to the “relevant statutory provisions” was a reference to these Regulations and to the specified provisions; and

(c) a reference to “health and safety regulations” was a reference to these Regulations.

(3) The provisions of the 1974 Act referred to in paragraph (2) are—

(a) sections 19 and 20 (appointment and powers of inspectors) ^{F255}, excluding section 20(3);

(b) sections 21 and 22 (improvement and prohibition notices) ^{F256};

- (c) section 23 (provisions supplementary to sections 21 and 22) ^{F257}, excluding section 23(3) and (6);
- (d) section 24 (appeal against improvement and prohibition notices) ^{F258};
- (e) section 26 (power to indemnify inspectors);
- (f) section 28 (restrictions on disclosure of information); ^{F259}
- (g) sections 33(1)(c), (e) to (h), (j) to (o), 34(2) to (5), 36(1) and (2), 37 to 41 and 42(1) to (3) (provision as to offences) ^{F260}; and
- (h) section 46 (service of notices).

(4) The mode of trial and maximum penalty applicable to each offence under section 33 of the 1974 Act so applied and listed in the first column of the following table are set out opposite that offence in the subsequent columns of the table.

<i>Offence</i>	<i>Mode of trial</i>	<i>Penalty on summary conviction</i>	<i>Penalty on conviction on indictment</i>
An offence under section 33(1)(c), (e), (f), (g), (j), (k), (l), (m) or (o).	Summarily or on indictment.	Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale as it has effect from time to time (as if the offence was triable only summarily), or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under section 33(1)(h).	Summarily only.	Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale as it has effect from time to time, or both.	
An offence under section 33(1)(n).	Summarily only.	A fine not exceeding level 5 on the standard scale as it has effect from time to time.	

(5) A failure to discharge a duty placed on the [^{F254}Office of Rail and Road], the Secretary of State, or the Intergovernmental Commission by these Regulations is not an offence under section 33(1) (c) of the 1974 Act.

F254 Words in reg. 39 substituted (E.W.S.) (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), reg. 1(2), **Sch. para. 9(c)**

F255 Section 20(7) was amended by the [Civil Partnership Act 2004 \(c.33\)](#), **Schedule 27**, paragraph 49.

F256 Section 22(1) and (2) were amended by, and section 22(4) was substituted by, the [Consumer Protection Act 1987 \(c.43\)](#), **Schedule 3**.

- F257** Section 23(4) was amended for England and Wales by the [Fire and Rescue Services Act 2004 \(c.21\)](#), [Schedule 1](#), paragraph 44, and by [S.I. 2005/1541](#). Corresponding amendments were made for Scotland by [S.S.I. 2005/383](#) and [S.S.I. 2006/475](#).
- F258** Section 24(2) and (4) were amended by the [Employment Rights \(Dispute Resolution\) Act 1998 \(c. 8\)](#), [section 1\(2\)](#) (a).
- F259** Section 28(4) was substituted by [S.I. 2008/960](#). Section 28(5) was amended by [S.I. 2004/3363](#). Section 28(9) was inserted by the [Employment Protection Act 1975 \(c.71\)](#), [Schedule 15](#), paragraph 9. There are other amendments to section 28 not relevant to these Regulations.
- F260** Section 33(1)(c) was amended by the [Employment Protection Act 1975 \(c.71\)](#), [Schedule 15](#), paragraph 11, and Schedule 18. Section 33(1)(m) was amended by the [Forgery and Counterfeiting Act 1981 \(c.45\)](#), the Schedule, Part 1.

Enforcement in Northern Ireland

40.—(1) It is the duty of the Health and Safety Executive for Northern Ireland ^{F261} to make adequate arrangements for the enforcement of these Regulations in Northern Ireland.

(2) Subject to paragraph (5), the provisions of the Health and Safety at Work (Northern Ireland) Order 1978 ^{F262} (“the 1978 Order”) specified in paragraph (3) (the “specified provisions”) apply for the purposes of the enforcement in Northern Ireland of these Regulations as if in the specified provision—

- (a) a reference to the “enforcing authority” was a reference to the Health and Safety Executive for Northern Ireland;
- (b) a reference to the “relevant statutory provisions” was a reference to these Regulations and to the specified provisions; and
- (c) a reference to “health and safety regulations” was a reference to these Regulations.

(3) The provisions of the 1978 Order referred to in paragraph (2) are—

- (a) articles 21 and 22 (appointment and powers of inspectors), excluding article 22(3);
- (b) articles 23 and 24 (improvement and prohibition notices);
- (c) article 25 (provisions supplementary to articles 23 and 24), excluding article 25(3);
- (d) article 26 (appeal against improvement and prohibition notices);
- (e) article 28 (power to indemnify inspectors);
- (f) article 30 (restrictions on disclosure of information); and
- (g) articles 31(1)(c), (e) to (h), (j) to (o), 32(2) to (4), 34 (1) and (2), 34A to 38 and 39(1) to (3) (provision as to offences).

(4) The mode of trial and maximum penalty applicable to each offence under article 31 of the 1978 Order so applied and listed in the first column of the following table are set out opposite that offence in the subsequent columns of the table.

<i>Offence</i>	<i>Mode of trial</i>	<i>Penalty on summary conviction</i>	<i>Penalty on conviction on indictment</i>
An offence under article 31(1)(c), (e), (f), (g), (k), (j), (l), (m) or (o).	Summarily or on indictment.	Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale as it has effect from	Imprisonment for a term not exceeding two years, or a fine, or both.

		time to time (as if the offence was triable only summarily), or both.
An offence under article 31(1)(h).	Summarily only.	Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale as it has effect from time to time, or both.
An offence under article 31(1)(n).	Summarily only.	A fine not exceeding level 5 on the standard scale as it has effect from time to time.

(5) A failure to discharge a duty placed on the Health and Safety Executive for Northern Ireland, [F263DFI] or the Secretary of State by these Regulations is not an offence under article 31(1)(c) of the 1978 Order.

F261 Formerly known as the Health and Safety Agency for Northern Ireland which was established under Article 12 of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/ 1039 (N.I. 9)). Article 3(1) of the Health and Safety at Work (Amendment) (Northern Ireland) Order 1998 (S.I. 1998/ 2795 (N.I. 18)) changed its name to the Health and Safety Executive for Northern Ireland.

F262 S.I. 1978/ 1039 (N.I. 9). Article 24 was amended by S.I. 1987/2049 (N.I. 20), **Article 28** and Schedule 2, paragraph 3. Article 26 was amended by S.I. 1984/1159 (N.I. 9), **Article 35** and Schedule 4. Article 31 was amended by: S.I. 1987/2049 (N.I. 20), **Article 28** and Schedule 2 paragraph 7; S.I. 1988/595 (N.I. 3), **Article 10(1)(c)**; S.I. 1986/1883 (N.I. 15), **Article 13(3)** and Schedule 5; S.I. 1992/1728 (N.I. 17), **article 6(1)**, (3), (4), (5), (7), Article 8 and Schedule 2; S.I. 1998/2795 (N.I. 18), **Article 6** and Schedule 1, paragraph 15, and Schedule 2, **Forgery and Counterfeiting Act 1981 (c. 45)** section 30 and **Schedule and the Health and Safety (Offences) Act 2008 (c.20)** section 1(3). There are other amendments to the 1978 Order not relevant to these Regulations.

F263 Word in **reg. 40(5)** substituted (31.12.2020) by **The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345)**, regs. 1(2), **2(45)**; 2020 c. 1, Sch. 5 para. 1(1)

Notices relating to interoperability constituents not meeting the essential requirements

41.—(1) If the [F264Office of Rail and Road] or the Health and Safety Executive for Northern Ireland is of the opinion that an interoperability constituent in relation to which an EC [F265or UK] declaration of conformity or suitability for use has been drawn up is unlikely when used as intended to meet the essential requirements relating to it, the [F264Office of Rail and Road] or the Health and Safety Executive for Northern Ireland may serve a notice in writing on any person who is using or intending to use that interoperability constituent in a project subsystem—

- (a) prohibiting the use of or restricting the area of use of that interoperability constituent; or
- (b) where there is a serious safety risk, requiring the recall or withdrawal of the interoperability constituent.

(2) The information to be contained in a notice served under paragraph (1) is—

- (a) a statement that the [F264Office of Rail and Road] or the Health and Safety Executive for Northern Ireland is of the opinion referred to in paragraph (1);

- (b) the reasons for that opinion;
- (c) a direction that the interoperability constituent to which that notice relates must not be used, or that its area of use shall be restricted, or that it must be recalled or withdrawn; and
- (d) the date by which the person must comply with the notice.

(3) Any notice served under paragraph (1) may be withdrawn by the [^{F264}Office of Rail and Road] or the Health and Safety Executive for Northern Ireland by serving notice of the withdrawal on the person.

- (4) Where a notice has been served on a person (“P”) in accordance with this regulation P must—
- (a) comply with that notice; and
 - (b) notify the person (if any) who supplied P with the interoperability constituent in relation to which the notice under paragraph (1) was served—
 - (i) that a notice under paragraph (1) has been served;
 - (ii) of what the notice says; and
 - (iii) that P requires that person in turn to notify the supplier (if any) with the same information contained in the notice from P.

F264 Words in [reg. 41](#) substituted (E.W.S.) (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), [reg. 1\(2\)](#), [Sch. para. 9\(d\)](#)

F265 Words in [reg. 41\(1\)](#) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), [regs. 1\(2\)](#), [2\(46\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Notice of improper drawing up of the EC [^{F266}or UK] declaration of conformity or suitability for use for an interoperability constituent

42.—(1) Where the [^{F267}Office of Rail and Road] or the Health and Safety Executive for Northern Ireland has reasonable grounds for suspecting that the EC declaration of conformity or suitability for use has not been drawn up in accordance with the requirements of [^{F268}relevant EU law, or the UK declaration of conformity or suitability for use has not been drawn up in accordance with the requirements of regulation 25 and Schedule 7], it may give notice in writing to any person who made the declaration.

(2) A notice which is given under paragraph (1) must—

- [^{F269}(a) state that the Office of Rail and Road or the Health and Safety Executive for Northern Ireland considers that the EC declaration of conformity or suitability for use has not been drawn up in accordance with the requirements of relevant EU law, or the UK declaration of conformity or suitability for use has not been drawn up in accordance with the requirements of regulation 25 and Schedule 7;]
- (b) specify the respect in which it is so considered and give particulars;
- (c) require the person who made the declaration to—
 - (i) secure that any interoperability constituent to which the notice relates conforms as regards the provisions concerning the proper drawing up of the declaration within such period as may be specified in the notice; and
 - (ii) provide evidence within that period, to the satisfaction of the [^{F267}Office of Rail and Road] or the Health and Safety Executive for Northern Ireland, as the case may be, that the declaration has been properly drawn up; and

- (d) inform the relevant person that if the non-conformity continues (or if satisfactory evidence of conformity has not been provided) within the period specified in the notice, further action may be taken in respect of that non-conformity under these Regulations.
- (3) Where a notice has been served under this regulation on a person, the person served must comply or secure compliance with the notice.

- F266** Words in [reg. 42](#) heading inserted (31.12.2020) by S.I. 2019/345, reg. 2(47)(a) (as substituted by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/318), regs. 1(2)(b), **5(11)**)
- F267** Words in [reg. 42](#) substituted (E.W.S.) (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015](#) (S.I. 2015/1682), reg. 1(2), **Sch. para. 9(e)**
- F268** Words in [reg. 42\(1\)](#) substituted (31.12.2020) by S.I. 2019/345, reg. 2(47)(b) (as substituted by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/318), regs. 1(2)(b), **5(11)**)
- F269** [Reg. 42\(2\)\(a\)](#) substituted (31.12.2020) by S.I. 2019/345, reg. 2(47)(c) (as substituted by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/318), regs. 1(2)(b), **5(11)**)

Defence of due diligence

43.—(1) Subject to the following provisions of this regulation, if proceedings are brought against a person (“P”) for an offence under these Regulations it is a defence for P to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.

- (2) Where P's defence involves an allegation that the commission of the offence was due to—
- (a) the act or default of another; or
 - (b) reliance on information given by another,

P is not, without the leave of the court, entitled to rely on the defence unless, within a period ending 7 clear days before the commencement of the hearing of the proceedings (or in Scotland, the trial diet), P has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph must give such information identifying, or assisting in the identification of, the person who committed the act or default or gave the information as is in the possession of P serving the notice at the time it is served.

(4) P is not entitled to rely on the defence provided by paragraph (1) by reason P's reliance on information supplied by another, unless P shows that it was reasonable in all the circumstances to have relied on the information, having regard in particular—

- (a) to the steps which P took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether P had any reason to disbelieve the information.

PART 7

Supplementary

Deemed authorisation

- 44.**—(1) Subject to paragraph (4), a vehicle to which this paragraph applies is deemed—
- (a) to have been authorised under these Regulations; and

- (b) to have been assessed against the requirements of Part 1 of Schedule 1 to the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 ^{F270}, as notified national technical rules, for the purposes of that authorisation.
- (2) Subject to paragraph (3), paragraph (1) applies to a vehicle which—
 - (a) is constructed or adapted to transport passengers; and
 - (b) was first brought into use after 31st December 1998 and before 1st August 2006; and
 - (c) is used in the provision of a service for the carriage of passengers on the trans-European rail system located in Great Britain.
- (3) Paragraph (1) does not apply to—
 - (a) a vehicle to the extent that immediately before 7th July 2008 the vehicle—
 - (i) was authorised or treated as having been authorised under the Railways (Interoperability) Regulations 2006 ^{F271}; and
 - (ii) had been assessed against the Rail Vehicle Accessibility Regulations 1998 ^{F272} as in force when the unit was assessed for that authorisation; or
 - (b) a vehicle which belongs to a class of vehicles first brought into use on or before 31st December 1998.
- (4) The deeming provisions of paragraph (1) do not apply for the purposes of—
 - (a) regulation 45; and
 - (b) regulation 4(1) in so far as that regulation applies in relation to any upgrading or renewal of a vehicle to which paragraph (2) applies.

F270 [S.I. 2010/432](#).

F271 [S.I. 2006/397](#), as amended by [S.I. 2007/3386](#). [S.I. 2006/397](#) was also amended by the [Rail Vehicle Accessibility \(Interoperable Rail System\) Regulations 2008 \(S.I. 2008/1746\)](#), but as those amendments came into force on 7th July 2008 they are not relevant to paragraph (3)(a)(i). Regulation 40(6) of [S.I. 2006/397](#) provides for authorisations under the Railways (Interoperability)(High-Speed) Regulations 2002 (2002/1166) to be treated as an authorisation under [S.I. 2006/397](#). Consequently the reference in paragraph (3)(a)(i) to a unit being authorised under the Railways (Interoperability) Regulations 2006 does not include a unit deemed to be authorised by virtue of regulation 4A of those Regulations, but does include a unit that was previously authorised under the Railways (Interoperability)(High-Speed) Regulations 2002.

F272 [S.I. 1998/2456](#), amended by [S.I. 2000/3215](#) and [S.I. 2008/1746](#) and revoked by [S.I. 2010/432](#).

Accessibility for people with reduced mobility

45. No person is to use a vehicle in the provision of a service for the carriage of passengers on the trans-European rail system located in the United Kingdom on or after 1st January 2020 unless it has been constructed, renewed, upgraded or modified to comply with the technical standards, and is operated to comply with the operational standards, required by—

- [^{F273}(a) the TSI relating to persons with reduced mobility set out in the Annex to [Decision 2008/164/EC](#) of the European Commission of 21 December 2007, or any amended version of it, or Commission Regulation 1300/2014 of the European Commission of 18 November 2014 which replaced it, or the NTSN that replaced Commission Regulation 1300/2014, or any variation of that NTSN, or any NTSN which replaces it;]
- (b) Part 1 of Schedule 1 to the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010;
- (c) the Rail Vehicle Accessibility Regulations (Northern Ireland) 2001; or

- (d) the TSI, or amended version of it or TSI replacing it [^{F274}or the NTSN], referred to in paragraph (a) except to the extent that—
- (i) the vehicle or its operation complies with the technical or operational standards required by the provisions referred to in paragraphs (b) or (c),
 - (ii) a derogation from part of it [^{F275}was granted under regulation 14 before IP completion day, or an exemption from part of it has been granted under regulations 14 and 14A],
 - (iii) a determination that part of it does not apply has been made under regulation 13(8), and
 - (iv) a dispensation that part of it does not apply for the purposes of this regulation has been granted under regulation 46.

- F273** Reg. 45(a) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(48)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F274** Words in reg. 45(d) inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(48)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F275** Words in reg. 45(d)(ii) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(48)(b)(ii)** (as amended by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **4(8)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Dispensations

46.—(1) The Competent Authority may grant a conditional or unconditional dispensation from [^{F276}NTRs] for a particular case or description of case if the Competent Authority is satisfied that the dispensation is consistent with the essential requirements.

(2) If the Competent Authority has granted a dispensation that the Competent Authority considers has created ^{F277}... a rule or restriction of a strictly local nature the Competent Authority must notify the relevant owner that the rule or restriction must be referred to in the infrastructure register.

(3) Paragraph (1) does not apply in relation to the requirements of the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 or the Rail Vehicle Accessibility Regulations (Northern Ireland) 2001.

(4) The Secretary of State may grant for a particular case or description of case a dispensation for the purposes of regulation 45(d)(iv).

- F276** Word in reg. 46(1) substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(49)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F277** Words in reg. 46(2) omitted (31.12.2020) by virtue of [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(49)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Revocation and savings

47.—(1) The Railways (Interoperability) Regulations 2006, the Railways (Interoperability) (Amendment) Regulations 2007 and regulation 4 of the Rail Vehicle Accessibility (Interoperable Rail System) 2008 ^{F278}are revoked.

(2) Where immediately before the coming into force of these Regulations an appointment of a notified body had effect as an appointment under the Railways (Interoperability) Regulations 2006, it continues to have effect as if made as an appointment under regulation 31 of these Regulations for the period specified when appointed.

(3) Where, under the Railways (Interoperability) Regulations 2006, a structural subsystem has been authorised to be placed in service on the rail system, it is from the coming into force of these Regulations treated as authorised under these Regulations.

(4) Regulation 4(8), (9) and (9A) of the Railways (Interoperability) Regulations 2006 continue to have effect in relation to a contract made before the coming into force of these Regulations.

(5) A derogation in force immediately before the coming into force of these Regulations and granted by the Secretary of State in accordance with the High-Speed Directive or a derogation granted by the Competent Authority in accordance with the Conventional Directive is treated as a derogation granted under regulation 14 in accordance Article 9 of the Directive.

(6) Any person who immediately before the coming into force of these Regulations is the registration body designated under regulation 33(12) of the Railways (Interoperability) Regulations 2006 is treated on and from the coming into force of these Regulations as if the person was designated as the registration entity under regulation 36(11).

F278 [S.I. 2006/397](#) was amended by [S.I. 2007/3386](#) and by regulation 4 of [S.I. 2008/1746](#)

[^{F279} Further savings and transitional arrangements

47A.—(1) Where a structural subsystem was authorised to be placed in service on the rail system in accordance with regulation 7 or regulation 9 as they had effect before IP completion day and that authorisation has not been revoked, it is treated as authorised under these Regulations as they have effect on or after IP completion day.

(2) Where an application for authorisation was made pursuant to regulation 5 as it had effect before IP completion day and that authorisation was not issued before IP completion day, it is, on or after IP completion day, treated as a valid application under these Regulations and any EC declaration of verification and technical file submitted with that application are treated as a UK declaration of verification and technical file submitted in accordance with these Regulations as they have effect on or after IP completion day.

(3) Where an application for type authorisation was made pursuant to regulation 9 as it had effect before IP completion day and that authorisation was not issued before IP completion day, it is, on or after IP completion day, treated as a valid application under these Regulations and any reference to an applicable TSI or notified national technical rule in the documentation accompanying that application is treated as a reference to the applicable NTSN or NTR which replaces them.

(4) Where a Competent Authority has made a decision about the requirement for authorisation and the extent to which TSIs must apply to a project subsystem pursuant to regulation 13(8) before IP completion day, a reference to a TSI in that decision is treated as a reference to the NTSN that replaces it.

(5) Where an application for a decision by the Competent Authority as to whether an authorisation is required was made pursuant to regulation 13 as it had effect before IP completion day and the Competent Authority has not made the decision before IP completion day, it is treated as an application under regulation 13 as it has effect on or after IP completion day, and any reference in that application to TSIs or parts of TSIs is treated as a reference to the NTSNs or parts of NTSNs that replace them.

(6) A derogation granted against a TSI by the Competent Authority in accordance with Article 9 of the Directive and these Regulations as they had effect before IP completion day is treated on or after IP completion day as an exemption granted by the Competent Authority against the NTSN which replaces that TSI in accordance with regulations 14 and 14A.

(7) Except for a project subsystem authorised under regulation 9, if a project subsystem was authorised before IP completion day, the project entity must (in addition to the requirements of

regulation 19(2)) keep the documents it was required to retain in accordance with regulation 19(1) (a) as it had effect before IP completion day.

(8) Where an interoperability constituent was placed on the market anywhere in the European Union before IP completion day, it is treated on or after IP completion day as an interoperability constituent placed on the UK market in accordance with Part 3.

(9) Where a notified body (as defined in regulation 30(2)) was engaged before IP completion day to carry out an EC verification assessment procedure in relation to TSIs or notified national technical rules pursuant to Annex VI of the Directive and regulation 16 as it had effect before IP completion day, the work carried out by that body before IP completion day is treated as work undertaken pursuant to regulation 16 and Schedule 4 as they have effect from IP completion day to carry out the UK verification assessment procedure in relation to NTSNs.

(10) Where a designated body was engaged before IP completion day to carry out an EC verification assessment procedure in relation to TSIs or notified national technical rules pursuant to Annex VI of the Directive and regulation 16 as it had effect before IP completion day, the work carried out by that body before IP completion day is treated as work undertaken pursuant to regulation 16 and Schedule 4 as they have effect from IP completion day to carry out the UK verification assessment procedure in relation to UK specific rules.

(11) A dispensation from a notified national technical rule granted by the Competent Authority pursuant to regulation 46 as it had effect before IP completion day, is treated on or after IP completion day as a dispensation from the NTR specified as replacing it.]

F279 Reg. 47A inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(50)** (as amended by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **4(9)**); 2020 c. 1, **Sch. 5 para. 1(1)**;

Amendments to legislation

48. The Schedule has effect.

Review

49.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other Member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Transport

Department for Transport

Theresa Villiers
Minister of State

SCHEDULE [F280 1]

Regulation 48

Amendments to legislation

F280 Word in Sch. heading inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(51)**; 2020 c. 1, Sch. 5 para. 1(1)

1. Section 182 of the Equality Act 2010 ^{F281} (rail vehicle accessibility regulations) is amended as follows—

- (a) in subsection (4), in the definition of “rail vehicle” for “high-speed rail system or the conventional TEN rail system” substitute “ trans-European rail system located in Great Britain ”, and
- (b) in subsection (5)—
 - (i) omit the definition of “conventional TEN rail system” and the definition of “high-speed rail system”, and
 - (ii) at the end insert—

““trans-European rail system” has the meaning given in regulation 2(1) of the Railways (Interoperability) Regulations 2011”.

F281 [2010 c. 15.](#)

2. In regulation 2(1) of the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 ^{F282} (interpretation)—

- (a) omit the definitions of “conventional TEN rail system” and “high-speed rail system”,
- (b) in the definition of “rail vehicle” for “high-speed rail system or the conventional TEN rail system” substitute “ trans-European rail system located in Great Britain ”, and
- (c) after the definition of “tramway” insert—

““trans-European rail system” has the meaning given in regulation 2(1) of the Railways (Interoperability) Regulations 2011;”.

F282 [S.I. 2010/432.](#)

3. The Railways and Other Guided Transport Systems (Safety) Regulations 2006 ^{F283} are amended as follows—

- (a) in regulation 2(1)—
 - (i) in the definition of “Interoperability Regulations” for “2006” substitute “ 2011 ”, and
 - (ii) in the definition of “National Vehicle Register” for “33” substitute “ 36 ”,
- (b) in regulation 5(5) omit “regulation 4(1)(a) of”, and
- (c) after regulation 5(5) insert—

“(6) Paragraph (5) does not apply in respect of an authorisation deemed to be given under the Interoperability Regulations by operation of regulation 44 of those Regulations.”.

F283 [S.I. 2006/599](#), as amended by [S.I. 2011/1860](#); there are other amending instruments but none is relevant.

[^{F284}SCHEDULE 2

Regulation 2

Essential Requirements

F284 Sch. 2 inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), reg. 1(2), **Sch. 1**; 2020 c. 1, Sch. 5 para. 1(1) (as amended by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(12)**)

(This Schedule substantially reproduces Annex III to the Directive with amendments to correct deficiencies arising from the UK's withdrawal from the European Union.)

1. General requirements

1.1. Safety

(1.1.1) The design, construction or assembly, maintenance and monitoring of safety-critical components, and more particularly of the components involved in train movements, must be such as to guarantee safety at the level corresponding to the aims laid down for the network, including those for specific degraded situations.

(1.1.2) The parameters involved in the wheel/rail contact must meet the stability requirements needed in order to guarantee safe movement at the maximum authorised speed. The parameters of brake equipment must guarantee that it is possible to stop within a given brake distance at the maximum authorised speed.

(1.1.3) The components used must withstand any normal or exceptional stresses that have been specified during their period of service. The safety repercussions of any accidental failures must be limited by appropriate means.

(1.1.4) The design of fixed installations and rolling stock and the choice of the materials used must be aimed at limiting the generation, propagation and effects of fire and smoke in the event of a fire.

(1.1.5) Any devices intended to be handled by users must be so designed as not to impair the safe operation of the devices or the health and safety of users if used in a foreseeable manner, albeit not in accordance with the posted instructions.

1.2. Reliability and availability

The monitoring and maintenance of fixed or moveable components that are involved in train movements must be organised, carried out and quantified in such a manner as to maintain their operation under the intended conditions.

1.3. Health

(1.3.1) Materials likely, by virtue of the way they are used, to constitute a health hazard to those having access to them must not be used in trains and railway infrastructures.

(1.3.2) Those materials must be selected, deployed and used in such a way as to restrict emission of harmful and dangerous fumes or gases, particularly in the event of fire.

1.4. Environmental protection

(1.4.1) The environmental impact of establishment and operation of the rail system must be assessed and taken into account at the design stage of the system in accordance with any relevant enactment or rule of law.

(1.4.2) The materials used in the trains and infrastructures must prevent the emission of fumes or gases which are harmful and dangerous to the environment, particularly in the event of fire.

(1.4.3) The rolling stock and energy-supply systems must be designed and manufactured in such a way as to be electromagnetically compatible with the installations, equipment and public or private networks with which they might interfere.

(1.4.4) The design and operation of the rail system must not lead to an inadmissible level of noise generated by it—

- (i) in areas close to the railway infrastructure as defined in Article 3 of [Directive 2012/34/EU](#), and
- (ii) in the driver's cab.

(1.4.5) Operation of the rail system must not give rise to an inadmissible level of ground vibrations for the activities and areas close to the infrastructure and in a normal state of maintenance.

1.5. Technical compatibility

The technical characteristics of the infrastructure and fixed installations must be compatible with each other and with those of the trains to be used on the rail system.

If compliance with these characteristics proves difficult on certain sections of the network, temporary solutions, which ensure compatibility in the future, may be implemented.

1.6. Accessibility

(1.6.1) The 'infrastructure' and 'rolling stock' subsystems must be accessible to persons with disabilities and persons with reduced mobility in order to ensure access on an equal basis with others by way of the prevention or removal of barriers, and by way of other appropriate measures. This shall include the design, construction, renewal, upgrade, maintenance and operation of the relevant parts of the subsystems to which the public has access.

(1.6.2) The 'operations' and 'telematics applications for passengers' subsystems must provide for the necessary functionality required to facilitate access to persons with disabilities and persons with reduced mobility on an equal basis with others by way of the prevention or removal of barriers, and by way of other appropriate measures.

2. Requirements specific to each subsystem

2.1. Infrastructure

(2.1.1) Safety

Appropriate steps must be taken to prevent access to or undesirable intrusions into installations. Steps must be taken to limit the dangers to which persons are exposed, particularly when trains pass through stations.

Infrastructure to which the public has access must be designed and made in such a way as to limit any human safety hazards (stability, fire, access, evacuation, platforms, etc.).

Appropriate provisions must be laid down to take account for the particular safety conditions in very long tunnels and viaducts.

(2.1.2) Accessibility

(2.1.2.1) Infrastructure subsystems to which the public has access must be accessible to persons with disabilities and persons with reduced mobility in accordance with paragraph 1.6.

2.2. Energy

(2.2.1) Safety

Operation of the energy-supply systems must not impair the safety either of trains or of persons (users, operating staff, trackside dwellers and third parties).

(2.2.2) Environmental protection

The functioning of the electrical or thermal energy-supply systems must not interfere with the environment beyond the specified limits.

(2.2.3) Technical compatibility

The electricity/thermal energy supply systems used must:

- (i) enable trains to achieve the specified performance levels,
- (ii) in the case of electricity energy supply systems, be compatible with the collection devices fitted to the trains.

2.3. Control-command and signalling

(2.3.1) Safety

The control-command and signalling installations and procedures used must enable trains to travel with a level of safety which corresponds to the objectives set for the network. The control-command and signalling systems should continue to provide for safe passage of trains permitted to run under degraded conditions.

(2.3.2) Technical compatibility

All new infrastructure and all new rolling stock manufactured or developed after adoption of compatible control-command and signalling systems must be tailored to the use of those systems.

The control-command and signalling equipment installed in the train drivers' cabs must permit normal operation, under the specified conditions, throughout the rail system.

2.4. Rolling stock

(2.4.1) Safety

The rolling-stock structures and those of the links between vehicles must be designed in such a way as to protect the passenger and driving compartments in the event of collision or derailment.

The electrical equipment must not impair the safety and functioning of the control-command and signalling installations.

The braking techniques and the stresses exerted must be compatible with the design of the tracks, engineering structures and signalling systems.

Steps must be taken to prevent access to electrically-live constituents in order not to endanger the safety of persons.

In the event of danger devices must enable passengers to inform the driver and accompanying staff to contact him.

The access doors must incorporate an opening and closing system which guarantees passenger safety.

Emergency exits must be provided and indicated.

Appropriate provisions must be laid down to take account of the particular safety conditions in very long tunnels.

All trains must have an emergency lighting system of sufficient intensity and duration on board.

Trains must be equipped with a public address system which provides a means of communication to the public from on-board staff.

(2.4.2) Reliability and availability

The design of the vital equipment and the running, traction and braking equipment and also the control and command system must, in a specific degraded situation, be such as to enable the train to continue without adverse consequences for the equipment remaining in service.

(2.4.3) Technical compatibility

The electrical equipment must be compatible with the operation of the control-command and signalling installations.

In the case of electric traction, the characteristics of the current-collection devices must be such as to enable trains to travel under the energy-supply systems for the rail system.

The characteristics of the rolling stock must be such as to allow it to travel on any line on which it is expected to operate, taking account of relevant climatic conditions.

(2.4.4) Controls

Trains must be equipped with a recording device. The data collected by this device and the processing of the information must be harmonised.

(2.4.5) Accessibility

Rolling stock subsystems to which the public has access must be accessible to persons with disabilities and persons with reduced mobility in accordance with paragraph 1.6.

2.5. Maintenance

(2.5.1) Health and safety

The technical installations and the procedures used in the centres must ensure the safe operation of the subsystem and not constitute a danger to health and safety.

(2.5.2) Environmental protection

The technical installations and the procedures used in the maintenance centres must not exceed the permissible levels of nuisance with regard to the surrounding environment.

(2.5.3) Technical compatibility

The maintenance installations for rolling stock must be such as to enable safety, health and comfort operations to be carried out on all stock for which they have been designed.

2.6. Operation and traffic management

(2.6.1) Safety

Alignment of the network operating rules and the qualifications of drivers and on-board staff and of the staff in the control centres must be such as to ensure safe operation, bearing in mind the different requirements of cross-border and domestic services.

The maintenance operation and intervals, the training and qualifications of the maintenance and control centre staff and the quality assurance system set up by the operators concerned in the control and maintenance centres must be such as to ensure a high level of safety.

(2.6.2) Reliability and availability

The maintenance operations and periods, the training and qualifications of the maintenance and control centre staff and the quality assurance system set up by the operators concerned in the control and maintenance centres must be such as to ensure a high level of system reliability and availability.

(2.6.3) Technical compatibility

Alignment of the network operating rules and the qualifications of drivers, on-board staff and traffic managers must be such as to ensure operating efficiency on the rail system, bearing in mind the different requirements of cross-border and domestic services.

(2.6.4) Accessibility

Appropriate steps must be taken to ensure that operating rules provide for the necessary functionality required to ensure accessibility for persons with disabilities and persons with reduced mobility.

2.7. Telematics applications for freight and passengers

(2.7.1) Technical compatibility

The essential requirements for telematics applications guarantee a minimum quality of service for passengers and carriers of goods, particularly in terms of technical compatibility.

Steps must be taken to ensure:

- (i) that the databases, software and data communication protocols are developed in a manner allowing maximum data interchange between different applications and operators, excluding confidential commercial data,
- (ii) easy access to the information for users.

(2.7.2) Reliability and availability

The methods of use, management, updating and maintenance of these databases, software and data communication protocols must guarantee the efficiency of these systems and the quality of the service.

(2.7.3) Health

The interfaces between these systems and users must comply with the minimum rules on ergonomics and health protection.

(2.7.4) Safety

Suitable levels of integrity and dependability must be provided for the storage or transmission of safety-related information.

(2.7.5) Accessibility

Appropriate steps must be taken to ensure that telematics applications for passengers subsystems provide for the necessary functionality required to ensure accessibility for persons with disabilities and persons with reduced mobility.]

[^{F285}SCHEDULE 3

Regulation 2

Subsystems

F285 Sch. 3 inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), reg. 1(2), [Sch. 2](#); 2020 c. 1, Sch. 5 para. 1(1)

(This Schedule substantially reproduces Annex II to the Directive with amendments to correct deficiencies arising from the UK's withdrawal from the European Union.)

List of subsystems

1. For the purposes of these Regulations, the system constituting the rail system may be broken down into the following subsystems, either—

- (a) structural areas—
 - infrastructure,
 - energy,
 - trackside control-command and signalling,
 - on-board control-command and signalling,
 - rolling stock.

- (b) functional areas—
 - operation and traffic management,
 - maintenance,
 - telematics applications for passenger and freight services.

Description of the subsystems

2. For each subsystem or part of a subsystem, the list of constituents and aspects relating to interoperability is proposed by the Secretary of State at the time of drawing up the relevant draft NTSN. Without prejudging the choice of aspects and constituents relating to interoperability or the order in which they will be made subject to NTSNs, the subsystems include the following—

2.1. Infrastructure

The track, points, engineering structures (bridges, tunnels etc.), associated station infrastructure (platforms, zones of access, including the needs of persons with reduced mobility, etc.), safety and protective equipment.

2.2. Energy

The electrification system, including overhead lines and the trackside of the electricity consumption measuring system.

2.3. Trackside control-command and signalling

All the trackside equipment required to ensure safety and to command and control movements of trains authorised to travel on the network.

2.4. On-board control-command and signalling

All the on-board equipment required to ensure safety and to command and control movements of trains authorised to travel on the network.

2.5. Operation and traffic management

The procedures and related equipment enabling coherent operation of the various structural subsystems, during both normal and degraded operation, including in particular train composition and train driving, traffic planning and management.

The professional qualifications which may be required for carrying out cross-border services.

2.6. Telematics applications

This subsystem comprises two elements—

- (a) applications for passenger services, including systems which provide passengers with information before and during the journey, reservation and payment systems, luggage management and management of connections between trains and other modes of transport;
- (b) applications for freight services, including information systems (realtime monitoring of freight and trains), marshalling and allocation systems, reservation, payment and invoicing systems, management of connections with other modes of transport and production of electronic accompanying documents.

2.7. Rolling stock

Structure, command and control system for all train equipment, electric current collection devices, traction and energy conversion units, on-board equipment for electricity consumption measuring, braking, coupling and running gear (bogies, axles, etc.) and suspension, doors, man/machine interfaces (driver, on-board staff and passengers, including the needs of persons with reduced

mobility), passive or active safety devices and requisites for the health of passengers and on-board staff.

2.8. Maintenance

The procedures, associated equipment, logistics centres for maintenance work and reserves providing the mandatory corrective and preventive maintenance to ensure the interoperability of the rail system and guarantee the performance required.]

[^{F286}SCHEDULE 4

Regulation 6(9)

UK verification assessment procedure for subsystems

F286 Sch. 4 inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), reg. 1(2), **Sch. 3** (as amended by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/318\)](#), regs. 1(2)(b), **5(13)(a)**, 5(13)(b), 5(13)(c), 5(13)(d)); 2020 c. 1, **Sch. 5 para. 1(1)**

(This Schedule substantially reproduces Annex VI to the Directive with amendments to correct deficiencies arising from the UK's withdrawal from the European Union.)

1. General principles

“UK verification” means a procedure carried out by a project entity applying for an authorisation pursuant to regulation 6 or regulation 17, to demonstrate that the requirements of these Regulations and any NTSNs or relevant NTRs relating to a subsystem have been fulfilled and the subsystem may be authorised to be placed in service.

2. UK certificate of verification issued by an approved body

2.1. Introduction

For the purpose of these Regulations, the verification by reference to NTSNs is the procedure whereby an approved body checks and certifies that the subsystem complies with the relevant NTSNs, save for any applicable UK specific cases contained in those NTSNs.

This is without prejudice to the obligations of the project entity to comply with any other enactment or rule of law, including any verifications by the assessment bodies required by other legislation.

2.2. Intermediate statement of verification (ISV)

(2.2.1) Principles

At the request of the project entity, the verifications may be done for parts of a subsystem or may be limited to certain stages of the UK verification assessment procedure. In these cases, the results of UK verification may be documented in an “intermediate statement of verification” (ISV) issued by the approved body chosen by the project entity.

The ISV must provide reference to the NTSNs with which the conformity has been assessed.

(2.2.2) Parts of the subsystem

The project entity may apply for an ISV for any part into which they decide to split the subsystem. Each part shall be checked at each stage as set out in point 2.2.3.

(2.2.3) Stages of the UK verification procedure

The subsystem, or certain parts of the subsystem, shall be checked at each of the following stages—

- (a) overall design,
- (b) production: construction, including, in particular, civil-engineering activities, manufacturing, constituent assembly and overall adjustment,
- (c) final testing.

The project entity may apply for an ISV for the design stage (including type tests) and for the production stage for the whole subsystem or for any part into which the project entity decided to split it (see point 2.2.2).

2.3. UK certificate of verification

(2.3.1) The approved bodies responsible for the UK verification must assess the design, production and final testing of the subsystem and must draw up the UK certificate of verification intended for the project entity. In turn, the project entity must draw up the UK declaration of verification. The UK certificate of verification must provide reference to the NTSNs with which the conformity has been assessed.

Where a subsystem has not been assessed for its conformity with all relevant NTSNs (e.g. in the case of an exemption, partial application of NTSNs for upgrade or renewal, transitional period in an NTSN or UK specific case), the UK certificate of verification shall give the precise reference to the NTSNs or their parts whose conformity has not been examined by the approved body during the UK verification assessment procedure.

(2.3.2) Where an ISV has been issued, whether by an approved body, an EU notified body, or a designated body, the approved body responsible for the verification of the subsystem must take the ISV into account, and before issuing its UK certificate of verification, must:

- (a) verify that the ISV correctly covers the relevant requirements of the NTSNs,
- (b) check all aspects that are not covered by the ISV, and
- (c) check the final testing of the subsystem as a whole.

(2.3.3) In the case of a modification to a subsystem already covered by a certificate of verification, the approved body shall perform only those examinations and tests that are relevant and necessary, i.e. assessment shall relate only to the parts of the subsystem that are changed and their interfaces to the unchanged parts of the subsystem.

(2.3.4) Each approved body involved in the verification of a subsystem shall draw up a technical file in accordance with regulation 17 covering the scope of its activities.

2.4. Technical file accompanying the UK declaration of verification

The technical file accompanying the UK declaration of verification shall be assembled by the project entity and must contain the following:

- (a) technical characteristics linked to the design including general and detailed drawings with respect to execution, electrical and hydraulic diagrams, control-circuit diagrams, description of data-processing and automatic systems to the level of detail sufficient for documenting the verification of conformity carried out, documentation on operation and maintenance, etc., relevant for the subsystem concerned;
- (b) a list of interoperability constituents incorporated into the subsystem;
- (c) the technical files compiled by each of the EU notified bodies or approved bodies involved in the verification of the subsystem, which shall include:
 - (i) copies of the EC or UK declarations of conformity or suitability for use established for interoperability constituents and accompanied, where appropriate, by the corresponding calculation notes and a copy of the records of the tests and examinations carried out by the approved body or EU notified body on the basis of the common technical specifications,

- (ii) where available, the ISV that accompanies the certificate of verification, including the result of verification by the approved body or by the EU notified body of the ISV validity,
- (iii) the certificate of verification, accompanied by corresponding calculation notes and signed by the EU notified body responsible for the verification, stating that the subsystem complies with the requirements of the relevant TSIs or by the approved body responsible for the verification, stating that the subsystem complies with the requirements of the relevant NTSNs, and mentioning any reservations recorded during performance of the activities and not withdrawn; the certificate of verification should also be accompanied by the inspection and audit reports drawn up by the same body in connection with its task, as specified in points 2.5.2 and 2.5.3;
- (d) any other certificates that may have been issued as part of a verification process in accordance with any other enactment or rule of law;
- (e) when verification of safe integration is required pursuant to the Railways and Other Guided Transport Systems (Safety) Regulations 2006, or the Railways (Safety Management) Regulations (Northern Ireland) 2006 the relevant technical file shall include the assessors' report(s) on the common safety methods (CSM) on risk assessment.

2.5. Surveillance by approved body

(2.5.1) The approved body responsible for checking production must have permanent access to building sites, production workshops, storage areas and, where appropriate, prefabrication or testing facilities and, more generally, to all premises which it considers necessary for its task. The approved body must receive from the project entity all the documents needed for that purpose and, in particular, the implementation plans and technical documentation concerning the subsystem.

(2.5.2) The approved body responsible for checking implementation must periodically carry out audits in order to confirm compliance with the relevant NTSNs. It must provide those responsible for implementation with an audit report. Its presence may be required at certain stages of the building operations.

(2.5.3) In addition, the approved body may pay unexpected visits to the worksite or to the production workshops. At the time of such visits the approved body may conduct complete or partial audits. It must provide those responsible for implementation with an inspection report and if appropriate, an audit report.

(2.5.4) The approved body shall be able to monitor a subsystem on which an interoperability constituent is mounted in order to assess, where required by the corresponding NTSNs, its suitability for use in its intended railway environment.

2.6. Submission

A copy of the technical file accompanying the UK declaration of verification must be kept by the project entity throughout the service life of the subsystem.

The documentation submitted for an application for an authorisation for placing in service shall be submitted to the Safety Authority.

2.7. Publication

Each approved body must periodically publish relevant information concerning:

- (a) requests for verification and ISV received,
- (b) requests for assessment of conformity or suitability for use of interoperability constituents,
- (c) ISVs issued or refused,
- (d) UK certificates of conformity or suitability for use issued or refused,

(e) UK certificates of verification issued or refused.

3. UK certificate of verification issued by a designated body

3.1. Introduction

In any case where UK specific rules apply, the verification shall include a procedure whereby the designated body checks and certifies that that subsystem complies with the UK specific rules.

3.2. Certificate of verification

The designated body must draw up the UK certificate of verification intended for the project entity.

The certificate shall contain a precise reference to the UK specific rule(s) whose conformity has been examined by the designated body in the UK verification process.

In the case of UK specific rules related to the subsystems composing a vehicle, the designated body shall divide the certificate into two parts, one part including the references to those UK specific rules strictly related to the technical compatibility between the vehicle and the network concerned, and the other part for all other UK specific rules.

3.3. Technical file

The technical file compiled by the designated body and accompanying the UK certificate of verification in the case of UK specific rules must be included in the technical file accompanying the UK declaration of verification referred to in point 2.4 and shall contain the technical data relevant for the assessment of the conformity of the subsystem with those UK specific rules.

4. Verification of parts of subsystems

If a UK certificate of verification is to be issued for certain parts of a subsystem, the provisions of this Schedule shall apply mutatis mutandis for those parts.]

[^{F287}SCHEDULE 5

Regulation 7(2)

UK declaration of verification of subsystems

F287 Sch. 5 inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), reg. 1(2), [Sch. 4](#) (as amended by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), [4\(10\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

(This Schedule substantially reproduces Annex V to the Directive with amendments to correct deficiencies arising from the UK's withdrawal from the European Union.)

1. UK declaration of verification of subsystems

The UK declaration of verification of subsystems is a declaration established by the project entity applying for an authorisation under these Regulations in which they declare on their sole responsibility that the subsystem concerned, which has been subject to the relevant verification procedures, satisfies the requirements of these Regulations, and any NTSNs or relevant NTRs.

The UK declaration of verification and accompanying documents must be dated and signed.

The UK declaration of verification must be based on the information resulting from the UK verification procedure for subsystems set out in Schedule 4. It must contain at least the following:

- (a) the reference to these Regulations, NTSNs and applicable NTRs,

- (b) the reference to the NTSN(s) or their parts to which conformity has not been examined during the UK verification procedure and to the UK specific rules which have been applied in the case of an exemption, partial application of NTSNs for upgrade or renewal, transitional period in an NTSN or UK specific case,
- (c) name and address of the project entity applying for an authorisation under these Regulations (specifying the trade name and full address; in the case of the authorised representative, specifying also the trade name of the contracting entity or manufacturer),
- (d) a brief description of the subsystem,
- (e) name(s) and address(es) and the identification number(s) of the approved body or bodies which conducted the UK verification assessment procedure,
- (f) if applicable, name(s) and address(es) and identification number(s) of the EU notified body or bodies which conducted the EC verification assessment procedure,
- (g) name(s) and address(es) and the identification number(s) of the body or bodies which conducted an assessment of conformity with any other applicable enactment or rule of law,
- (h) name(s) and address(es) of the designated body or bodies which conducted the UK verification assessment procedure in relation to UK specific rules,
- (i) name and address of the assessment body or bodies which established the safety assessment reports related to the use of the CSM on risk assessment referred to in paragraph 2.4(e) of Schedule 4,
- (j) the references of the documents contained in the technical file accompanying the UK declaration of verification,
- (k) all the relevant temporary or final provisions to be complied with by the subsystems and in particular, where appropriate, any operating restrictions or conditions,
- (l) the identity of the signatory (i.e. the physical person or persons authorised to sign the declaration).

Where reference is made in Schedule 4 to the “intermediate statement of verification” (ISV), the provisions of this Section shall apply to that declaration.

2. Modification of subsystems with EC or UK declaration of verification issued before IP completion day

In a case of a modification, which is not a substitution in the framework of maintenance, of a subsystem covered by a UK declaration of verification, or by an EC declaration of verification issued before IP completion day, without prejudice to regulations 12 and 13, the following provisions apply.

2.1. If the entity introducing the modifications demonstrates that the modification does not affect the basic design characteristics of the subsystem which are relevant for the compliance with the requirements concerning the basic parameters:

- (a) the entity introducing the modification shall update the references of the documents contained in the technical file accompanying the EC or UK declaration of verification, and
- (b) no new UK declaration of verification needs to be established.

2.2. If the entity introducing the modification demonstrates that the modification affects the basic design characteristic of the subsystem which are relevant for the compliance with the requirements concerning some basic parameters:

- (a) the entity introducing the modification shall establish an additional UK declaration of verification with reference to the basic parameters concerned,
- (b) the additional UK declaration of verification shall be accompanied by a list of documents of the original technical file accompanying the original UK declaration of verification or EC declaration of verification that are no longer valid,

Changes to legislation: There are currently no known outstanding effects for the *The Railways (Interoperability) Regulations 2011*. (See end of Document for details)

- (c) the technical file accompanying the additional UK declaration of verification shall include a demonstration that the impact of modifications is limited to the basic parameters referred to in point (a),
- (d) the provisions of Section 1 of this Schedule shall apply mutatis mutandis to this additional UK declaration of verification,
- (e) the original UK declaration of verification or EC declaration of verification shall be considered valid for the basic parameters not concerned by the modification.

3. UK declaration of verification in the case of additional verifications

Where additional UK verifications are carried out an additional UK declaration of verification may be required, in particular when such additional verifications are necessary for an additional authorisation for placing in service. In this case the scope of the additional UK declaration of verification shall be limited to the scope of the additional verifications.]

[^{F288}SCHEDULE 6

Regulation 9(5)]

Model declaration of conformity to an authorised type of vehicle

F288 Sch. 6 inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), reg. 1(2), [Sch. 5](#); 2020 c. 1, Sch. 5 para. 1(1)

Declaration of conformity to an authorised type of vehicle

We,

Project entity (1)

[Business name & address]

Authorised representative

[Business name & address]

of the project entity

[Business name & address]

declare under our sole responsibility, that the vehicle *[European Vehicle number]*(2) to which this declaration refers-

(a) conforms to a vehicle type authorised in the UK under authorisation number *[number]*;

(b) complies with all relevant UK legislation, relevant NTSNs and relevant NTRs as indicated in the Annexes to this declaration;

(c) has undergone all necessary verification procedures to make this declaration.

List of Annexes (3)

[Titles of the Annexes]

Signed for and on behalf of the *[Name of project entity]*

Date *[Name, function, signature]*

Field reserved for Safety Authority:

EVN allocated to vehicle: *[EVN]*

(1) The project entity may be the contracting entity, or the manufacturer, or the authorised representative.

(2) If at the moment of making this declaration the vehicle has not yet been assigned a European Vehicle Number (EVN), the vehicle shall be identified by another identification system agreed with the project entity and the Safety Authority. In this case, when an EVN has been assigned to the vehicle, the Safety Authority shall fill in the field reserved for this purpose.

(3) Annexes shall include copies of the documents providing evidence of the completion of the relevant verification assessment procedures in accordance with any enactment or rule of law.

[^{F289}SCHEDULE 7

Regulation 25(2)

UK declaration of conformity or suitability for use of interoperability constituents

F289 Sch. 7 inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), reg. 1(2), **Sch. 6** (as amended: by [S.I. 2020/318](#), regs. 1(2)(b), **5(14)(a)**, 5(14)(b) and [S.I. 2020/786](#), regs. 1(2)(b)(i), **4(11)(a)**, 4(11)(b)); 2020 c. 1, **Sch. 5 para. 1(1)**

(This Schedule substantially reproduces Annex IV to the Directive with amendments to correct deficiencies arising from the UK's withdrawal from the European Union.)

1. Interoperability constituents

The UK declaration of conformity or suitability for use applies to the interoperability constituents involved in the interoperability of the rail system. These interoperability constituents may be:

(1.1) Multiple-use constituents

These are constituents that are not specific to the railway system and which may be used as such in other areas.

(1.2) Multiple-use constituents having specific characteristics

These are constituents which are not, as such, specific to the railway system, but which must display specific performance levels when used for railway purposes.

(1.3) Specific constituents

These are constituents that are specific to railway applications.

2. Scope

The UK declaration of conformity or suitability for use must cover:

- (a) the assessment by an approved body or bodies or designated body or bodies of the intrinsic conformity of an interoperability constituent, considered in isolation, to the technical specifications to be met,
- (b) the assessment/judgement by an approved body or bodies or designated body or bodies of the suitability for use of an interoperability constituent, considered within its railway environment and, in particular in cases where the interfaces are involved, in relation to the technical specifications, particularly those of a functional nature, which are to be checked, or
- (c) the assessment by a designated body or bodies of the conformity or suitability for use of an interoperability constituent against applicable UK specific cases, where an EC declaration of conformity or suitability for use has been drawn up on or after IP completion day and there are applicable UK specific cases, or an EC declaration of conformity or suitability for use has been drawn up before IP completion day and any applicable UK specific cases are new or materially different to those against which the interoperability constituent was previously assessed.

The assessment procedures implemented by the approved bodies or the designated bodies at the design and production stages must draw upon the modules defined in the NTSN concerning modules for the procedures for assessment of conformity or suitability for use and UK verification, and in accordance with the conditions referred to in the NTSNs.

3. Contents of the UK declaration of conformity or suitability for use

The UK declaration of conformity or suitability for use and the accompanying documents must be dated and signed.

That declaration must contain the following:

- (a) references to the appropriate provisions of these Regulations,
- (b) name and address of the manufacturer or its authorised representative or the manufacturer's representative (give trade name and full address, in the case of the authorised representative, or the manufacturer's representative, also give the trade name of the manufacturer),
- (c) description of interoperability constituent (make, type, etc),
- (d) description of the procedure followed in order to declare conformity or suitability for use,
- (e) all the relevant descriptions met by the interoperability constituent and, in particular, its conditions of use,
- (f) name and address of the UK approved body or bodies or the designated body or bodies involved in the procedure followed in respect of conformity or suitability for use and date of examination certificate together with, where appropriate, the duration and conditions of validity of the certificate,
- (g) where appropriate, reference to any other relevant specifications,
- (h) identification of the signatory empowered to enter into commitments on behalf of the manufacturer or of the manufacturer's authorised representative or the manufacturer's representative.

In this Schedule "examination certificate" means a certificate drawn up as part of an assessment of an interoperability constituent in accordance with one of the modules defined in the NTSN concerning modules for the procedures for assessment of conformity or suitability for use and UK verification.]

[^{F290}SCHEDULE 8

Regulation 31(3)

Minimum criteria which must be taken into account
by the Secretary of State when approving bodies

F290 Sch. 8 inserted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/345), reg. 1(2), **Sch. 7** (as amended by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/318), regs. 1(2)(b), **5(15)**); 2020 c. 1, **Sch. 5 para. 1(1)**

(This Schedule substantially reproduces Annex VIII to the Directive with amendments to correct deficiencies arising from the UK's withdrawal from the European Union.)

1. The body, its Director and the staff responsible for carrying out the checking operations may not become involved either directly or as authorised representatives in the design, manufacture, construction, marketing or maintenance of the interoperability constituents or subsystems or in their use. This does not exclude the possibility of an exchange of technical information between the manufacturer and that body.

2. The body and the staff responsible for the checks must carry out the checks with the greatest possible professional integrity and the greatest possible technical competence and must be free of any pressure and incentive, in particular of a financial type, which could affect their judgement or the results of their inspection, in particular from persons or groups of persons affected by the results of the checks.

In particular, the body and staff responsible for the checks must be functionally independent of the authorities designated to issue authorisations for placing into service in the framework of these Regulations, operator licences in the framework of the Railways (Licensing of Railway Undertakings) Regulations 2005 or the Railways Infrastructure (Access, Management and Licensing of Railway Undertakings) Regulations (Northern Ireland) 2016, safety certificates in the framework of the Railways and Other Guided Transport Systems (Safety) Regulations 2006 or the Railways (Safety Management) Regulations (Northern Ireland) 20006, and of bodies in charge of investigations in the event of accidents.

3. The body must employ staff and possess the means required to perform adequately the technical and administrative tasks linked with the checks; it should also have access to the equipment needed for exceptional checks.

4. The staff responsible for the checks must possess—

- (a) proper technical and vocational training,
- (b) a satisfactory knowledge of the requirements relating to the checks that they carry out and sufficient practice in those checks,
- (c) the ability to draw up certificates, records and reports which constitute the formal record of the inspections conducted.

5. The independence of the staff responsible for inspections must be guaranteed. No official must be remunerated either on the basis of the number of inspections performed or of the results of those inspections.

6. The body must take out civil liability insurance unless that liability is covered by the UK Government under the law of the UK or of any part of the UK or unless the checks are carried out directly by the UK Government.

7. The staff of the body must be bound by professional secrecy with regard to everything they learn in the performance of their duties (with the exception of the competent administrative authorities and accident investigation bodies in the UK as well as accident investigation bodies responsible for the investigation of accidents caused by the failure of the interoperability constituents or subsystems checked) in pursuance of these Regulations.]

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the provisions of Directive [2008/57/EC](#) (the “Directive”) of the European Parliament and of the Council of 17th June 2008 (O.J. No. L 191, 18.7.2008, p1, as amended by Commission Directive [2009/131/EC](#) O.J. No. L 273, 17.10.2009, p12 and Commission Directive 2011/18/EU O.J. No. L 57, 2.3.2011, p21) on the interoperability of the rail system within the Community (now the EU).

The Directive is a recast of two earlier rail interoperability Directives, which were repealed with effect from 19 July 2010. The two earlier Directives, defined in *regulation 2* as the Conventional Directive and the High-Speed Directive, were implemented in the United Kingdom by the Railways (Interoperability) Regulations 2006 (the “2006 Regulations”) (S.I. 2006/397, as amended by S.I. 2007/3386 and S.I. 2008/1746). These Regulations in effect consolidate and

amend the 2006 Regulations. The 2006 Regulations are, therefore, revoked subject to appropriate savings being made (*regulation 47*).

Regulation 3 provides for the application of the Regulations, including provisions for parts of the of the United Kingdom rail system to be excluded from the scope of the Regulations. These exclusion provisions are subject to voluntary arrangements provided for in *regulation 5*.

Regulation 4 restricts the putting into use of structural subsystems (e.g. infrastructure, vehicles) that are new or have undergone renewal or upgrade. The Competent Authority can make decisions under *regulation 12* as to whether a project or type of project is for the renewal or upgrading of a structural subsystem. Only those authorised by the Safety Authority or ruled by the Competent Authority as not requiring authorisation (*regulation 13*) or, in the case of vehicles, having a valid authorisation for another Member State may be put into use. In Great Britain the Safety Authority is the Office of Rail Regulation. In Northern Ireland it is the Department for Regional Development in Northern Ireland (“DRDNI”). The Competent Authority means the Secretary of State in Great Britain and the DRDNI in Northern Ireland.

Regulation 5 and regulations 16 to 19 set out the process for making an application to the Safety Authority for authorisation, the information that must be provided and the assessments that must be undertaken. These include assessments in relation to EU technical specifications for interoperability (“TSIs”) and, if any national technical rules have been notified to the Commission, assessments in relation to those rules. The Competent Authority may grant derogations from the application of TSIs in the circumstances set out in *regulation 14*.

If an authorisation is sought in respect of a vehicle that is authorised for use in another Member State the authorisation process is modified by *regulation 6*.

Regulation 7 provides the Safety Authority must give an authorisation if satisfied that a verification declaration has been drawn up in accordance with Annex V to the Directive, and that the subsystem has been designed, constructed and installed so as to meet the essential requirements when placed into service and is technically compatible with the rail system.

Regulation 15 provides that the essential requirements are deemed to be met by conformity with any applicable TSI and notified national technical rules.

Regulation 8 provides that the Safety Authority must make a determination of type that describes the basic design characteristics of a vehicle for which an authorisation has been issued. The Safety Authority may, with the consent of the applicant, make a determination of type where a non-vehicle authorisation has been issued.

Where a determination of type has been made a process for obtaining an authorisation of a subsystem that conforms to the determination is available under *regulations 9 and 10*.

Regulation 11 provides that the Safety Authority may revoke an authorisation and the process for making a revocation decision.

Regulation 20 places obligations on the operator of an authorised subsystem that has been placed in service to continue to meet TSIs and notified national technical rules.

Regulations 21 and 22 permit the Safety Authority and the Competent Authority to charge for certain work.

Part 3 contains requirements for “interoperability constituents”. These are components of a subsystem that must satisfy requirements to be placed on the railway market for use in the rail system.

Part 4 concerns the bodies responsible for assessing conformity of subsystems and interoperability constituents to the relevant standards, called “notified bodies”, or, in the case of the assessment of notified national technical rules “designated bodies”. Provision for the recovery of fees by notified bodies, designated bodies and the Secretary of State are contained in *regulations 33 and 34*.

Part 5 contains provisions for the keeping of registers of infrastructure (*regulation 35*) and a National Vehicle Register (*regulation 36*). Authorised vehicles are issued with a vehicle number. Enforcement and appeal provisions are set out in *Part 6*. The recall and withdraw notice powers in *regulations 41* gives effect, in relation to the part that needs to be transposed for these Regulations, to Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008

Changes to legislation: There are currently no known outstanding effects for the
The Railways (Interoperability) Regulations 2011. (See end of Document for details)

setting out the requirements for accreditation and market surveillance relating to the marketing of products (OJ No. L218 13/8/2008 p.30 – see Article 20(1)).

Part 7 contains supplementary provisions. Passenger rail vehicles falling under *regulation 44* are to be authorised and assessed against notified national technical rules relating to rail vehicle accessibility. All passenger rail vehicles operated on the United Kingdom's part of the trans-European rail system must comply with accessibility standards by 2020 (*regulation 45*).

Regulation 46 enables dispensations from notified national technical rules to be granted and partial dispensations in relation to *regulation 45*.

Regulation 49 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

The Schedule makes consequential amendments to rail vehicle accessibility legislation and rail safety regulations.

A list of TSIs and of notified national technical rules applying in Great Britain can be obtained from the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR and those applying in Northern Ireland can be obtained from the Department for Regional Development, River House, 48 High Street, Belfast, BT1 2AR.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.

Changes to legislation:

There are currently no known outstanding effects for the The Railways (Interoperability) Regulations 2011.